Te Tūāpapa Kura Kāinga
Ministry of Housing and Urban Development

Ministry for the Environment
Manatū Mō Te Taiao

Departmental Report on the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill

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Abbreviations

The Bill	Resource Management (Enabling Housing Supply) Amendment Bill
Councils	Used in this document to refer to territorial authorities
NPS-UD	National Policy Statement on Urban Development
MDRS	Medium Density Residential Standards
ISPP	Intensification Streamlined Planning Process
Submission	Written submissions on the proposed plan change
Further submission	An opportunity for submitters to respond to other submitters
Hearing	A series of meetings where submitters can make their points in person (or on zoom)
HIRB	Height in relation to boundary
Independent Hearing Panel	Council appointed panel who run the hearing and write a recommendations report
Tier 1	Territorial authorities listed in the NPS-UD as tier 1
Tier 2	Territorial authorities listed in the NPS-UD as tier 2
The Minister	The Minister for the Environment
The Ministry	The Ministry for the Environment
RM	Resource Management
RMA	Resource Management Act 1991

Council Abbreviations

Auckland Council	AC
Waikato Regional Council	WRC
Hamilton City Council	Hamilton CC
Waikato District Council	Waikato DC
Waipā District Council	Waipā DC
Bay of Plenty Regional Council	BOPRC
Tauranga City Council	TCC
Western Bay of Plenty District Council	WBOPDC
Wellington Regional Council	WRC
Wellington City Council	WCC
Porirua City Council	PCC
Hutt City Council	Hutt CC
Upper Hutt City Council	UHCC
Kāpiti Coast District Council	KCDC
Canterbury Regional Council	CRC
Christchurch City Council	CCC
Selwyn District Council	SDC
Waimakariri District Council	Waimakariri DC
Rotorua District Council	RDC
Whangarei District Council	Whangarei DC
Nelson City Council	NCC
Tasman District Council	TDC
New Plymouth District Council	NPDC
Queenstown Lakes District Council	QLDC
Dunedin City Council	DCC
Palmerston North City Council	PNCC

Chapter 1 Introduction

This Departmental Report (the report) presents a section-by-section, clause-by-clause summary of the Ministry for the Environment's (MfE) and Te Tūāpapa Kura Kāinga the Ministry of Housing and Urban Development's (HUD) recommended amendments to the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill (the Bill).

This report provides technical amendments identified by the Ministries, a summary of submissions received and any related proposed amendments to the Bill.

Our recommendations on amendments to the Bill are subject to Parliamentary Counsel's discretion concerning how best to express each recommendation in legislation. In addition, Parliamentary Counsel may recommend additional amendments to the Bill that are:

- a consequence of implementing a recommendation made by the Ministry
- necessary for the overall coherence of the legislation, or
- required editorial changes (e.g. punctuation, spelling and typographical errors).

1.1 Report structure

This chapter provides a brief background on the Bill and a summary of key recommendations.

The main body of the report provides a summary of submissions and our recommendations. Note the report structure is based around topics within the Bill.

Chapter 2: Interpretation provisions
This chapter covers clauses 4, 5 and 6 of the Bill.

Chapter 3: Intensification Streamlined Planning Process
This chapter covers clauses 8 and 14 of the Bill.

Chapter 4: Medium Density Residential Standards
This chapters covers clauses 7, 9 and 10 of the Bill and all of Schedule 1.

Chapter 5: Other Matters
This chapter covers other matters included in the Bill.

Chapter 6: Matters out of scope
This chapter covers out of scope matters.

Chapter 7: Recommendations by clause
This chapter sets out our recommended changes clause-by-clause.

1.2 Policy intent of the Bill

The policy intent of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill is to boost housing supply in New Zealand's major urban areas by bringing forward and strengthening the National Policy Statement on Urban Development (NPS-UD).

Too many New Zealanders are experiencing housing stress

New Zealand is facing a housing crisis. Not enough homes are being built to meet the needs of New Zealanders, especially of the typology that is more affordable. This makes our housing increasingly unaffordable to own or rent, particularly for the most vulnerable families and whānau. Homeownership is now well out of reach of most renting households our major cities and regional centres and the national homeownership rate is declining. This housing unaffordability is resulting in too many people in housing stress or experiencing homelessness. COVID-19 has exacerbated this housing inequality further.

An example of this housing unaffordability is the marked increases in the cost of housing in our largest cities in the last few years. The table below shows the increase in median sales prices and rents since 2019.

Area	**Median Sales Price 09/21**	Increase since 09/19	**Median Rent 09/21**	Increase since 09/19
Auckland	**$1.1m**	+$280k (34.1%)	**$595**	+$45 (8.2%)
Tauranga City	**$895k**	+236k (35.8%)	**$590**	+$90 (18%)
Hamilton City	**$785k**	+$202k (34.8%)	**$500**	+60 (13.6%)
Wellington City	**$1.05m**	+290k (37.8%)	**$585**	+$45 (6.4%)
Christchurch City	**$600k**	+$150k (33.3%)	**$450**	+$50 (12.5%)

There has also been a marked decline in the availability of affordable rentals for lower income households, particularly in our largest cities. There are approximately 121,000 renting households with household incomes up to $70,000 a year[1] living in the tier 1 council areas according to self-reported household income data from Census 2018. However, in 2020, only 16,900 rentals were lodged with rents affordable to these households (so below $404 a week[2]). This is about one third as many rentals in this price range as were lodged in 2013.

[1] Excluding the 55,000 households in public housing places.
[2] Using the 30% income affordability definition.

There is no silver bullet to solve the housing crisis

Solving the housing crisis requires a system-wide response. There are several initiatives underway to improve the way New Zealand's cities function and bring on significant land supply for development. These include the Urban Growth Agenda, the Housing Acceleration Fund, the Infrastructure Funding and Financing Act 2020, and reform of resource management, local government, and three waters.

While these initiatives will have a significant impact on housing supply, it will in the medium to long term that their impact will really be felt. They will also need to be complemented by action and investment from other key players such as local government and iwi.

Housing intensification is a critical enabler of housing supply…

More needs to be done now to unlock housing development in the short-term and provide for enduring planning rules that better respond to demand in the future.

Accelerating the intensification of New Zealand's urban areas is one of the key things the Government can do to increase housing supply. This is because intensification enables a wider variety of homes to be built at different price points in areas in good proximity to jobs, transport, and community facilities like schools and hospitals.

Greater choice of housing has the benefit of reducing overcrowding and improving health outcomes for all New Zealanders including Māori and Pacific communities, older New Zealanders, and people with disabilities. It better supports multi-generational ways of living.

Intensification spreads growth across existing town centres, rather than concentrating development in certain communities. It enables land and infrastructure to be used more efficiently and minimises sprawl onto highly productive land and valuable ecosystems like wetlands. Higher population densities also improve investment, and the efficiency of investment, by councils and others in community services (such as parks, public transport, and streets) and retail.

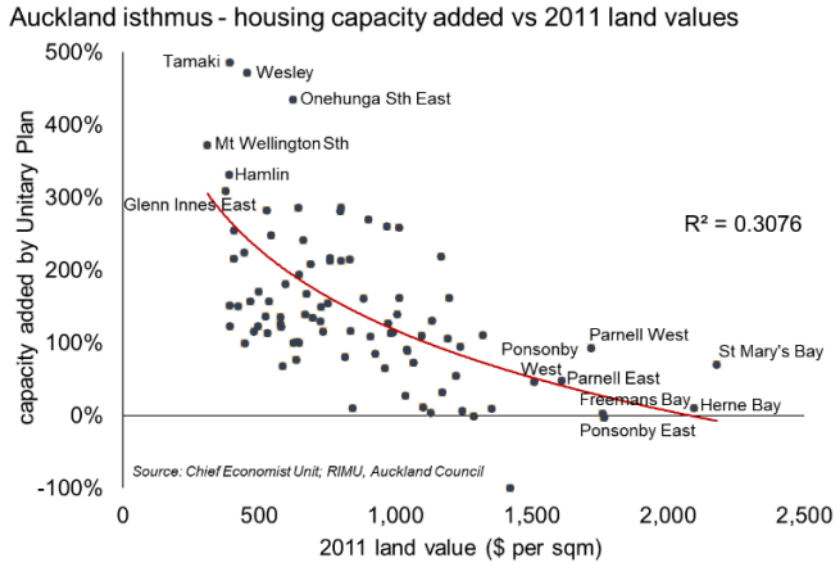
Another benefit of intensification is making active and public transport more accessible to more homes, therefore reducing dependence on cars. It also enables more compact, energy efficient homes to be built. The lifecycle emissions generated by this kind of construction can be shared across a greater number of households than single family home development, reducing reduce per-household emissions.

…but overly restrictive planning rules are a key barrier

A key barrier to intensification is overly restrictive planning rules that limit development and make it harder for people to build the homes they want, where they want. These rules can be confusing and arbitrary, causing expensive delays. They have led to high land prices and incentivised land banking and speculation.

These planning rules have resulted in an uneven distribution of intensification across our major urban areas. Low density development is often concentrated in established suburbs close to the city centre, where demand for housing is the highest. Conversely, higher density development is concentrated in less accessible suburbs where more of New Zealand's poorer, younger, and most vulnerable families and whānau live.

The diagram below from Auckland Council shows how capacity added under the Auckland Unitary Plan tends to be in areas of lower demand and that growth has not been enabled in areas of high demand.



There will be a broad range of views on removing these planning rules. For some, it represents a reduction in sunlight, and a perceived reduction in the aesthetics and desirability of a neighbourhood. For others, it represents an opportunity to buy or rent affordably, particularly for those under-represented in the market such as first homebuyers and renters.

Urgent action is needed so more New Zealanders have a place to call home

The Government made substantial progress in removing these overly restrictive planning rules by introducing the NPS-UD in August 2020. The NPS-UD is a powerful tool that enables greater housing intensification and directs councils to better plan for future growth.

A cost-benefit analysis by PwC on the NPS-UD's intensification policies showed they would increase housing supply, and lower house prices and rents. PwC found that 72,000 additional houses can be expected by 2043 in Auckland, Hamilton, Tauranga, Wellington, and Christchurch. PwC now considers this to be a conservative estimate.

Councils are making good progress with implementing the NPS-UD. However, it will be in 2024 when its impacts start to be felt. Given the seriousness of the housing crisis, urgent action is needed now to enable more homes to be built faster. That is why the Bill does two things:

- It creates a new streamlined process so the tier 1 councils in Auckland and Greater; Hamilton, Tauranga, Wellington, and Christchurch can implement the NPS-UD faster. This means the new policies and rules enabling intensification will be in their plans from August 2023, at least a year earlier than under current timelines.
- It supports further housing intensification by introducing Medium Density Residential Standards (MDRS). The tier 1 councils will need to change their planning rules so most of their residential areas are zoned for medium density housing. This allows more townhouses and units to be built but will not require it.

A cost-benefit analysis by PwC and Sense Partners estimated the MDRS will have a significant impact on supply. Their modelling shows they could result in between 48,200 to 105,500 additional houses in our largest cities over the next 5-8 years.

The projected benefits of the MDRS are large, with the primary economic benefit being a decline in house prices that generates a transfer between existing homeowners and would be homebuyers. The negative impacts of growth (such as congestion, and loss of sunshine and views) are very low compared to the benefits of a greater variety of more affordable homes. Total benefits of the policies are expected to outweigh costs at a ratio between 1.27 and 2.47 to one.

1.3 Overall summary of submissions

Overall, there were:

- 1000 submissions in total
- 152 submissions supportive of the whole Bill.
- 271 submissions opposed the whole Bill.
- The remaining number of submitters indicated partial support or partial opposition with recommended changes.

Many submitters wrote in support of the submissions of other organisations. Those opposing the Bill were often in support of the Tree Council (68 in support) or the Character Coalition (69 in support). Several supporters referenced the submission from the Coalition for More Homes (16 in support).

1.4 Overarching issue - infrastructure

Submitters commented on a wide range of infrastructure related matters. Councils, peak bodies, iwi, individuals, and developers) had a range of concerns including that the MDRS would:

- exacerbate existing infrastructure concerns, and potentially lead to negative environmental impacts if existing networks are overloaded, until infrastructure upgrades can be planned, funded and implemented
- mean infrastructure would have to be provided everywhere at once to support new development, that may not eventuate
- require infrastructure to be provided in an ad-hoc manner and that regional councils would not be able to ensure strategic integration of infrastructure with land use, as required by the RMA
- reduce councils' ability to plan for future infrastructure provision
- place additional burden on councils' financial position, and
- limit opportunities to discuss infrastructure requirements with developers, as resource consent is no longer needed.

Infrastructure New Zealand and New Zealand Infrastructure Commission Te Waihanga (Infra Comm) had a different view on the potential infrastructure implications of the MDRS. Infra Comm submitted that the MDRS is unlikely to increase the total cost or use of infrastructure networks in the long run as the primary impact of the Bill will be to shift development to where people live, rather than to increase New Zealand's total urban population.

Specific recommendations from submitters are addressed in the relevant sections of the report.

Response

We acknowledge submitters' concerns about the potential impacts on infrastructure. The intent of the Bill is to rapidly increase development in residential zones in tier 1 councils. However, we think the impacts will likely be manageable in the short-term. This is because the MDRS will shift patterns of development, and total demand for infrastructure capacity is largely driven by population growth, not the number of buildings. For example, the MDRS will make it easier for multiple people to live in multiple dwellings on one site.

We have responded to the concerns of submitters and recommend changes to the scope of the ISPP to enable councils to update their district wide provisions in plans (including about infrastructure). We consider that these will provide councils with some options to address infrastructure concerns. Councils often manage district wide matters relating to technical infrastructure matters through chapters in their plans that have district wide effect. The ability to adjust these measures through the ISPP will both allow councils to manage infrastructure issues and support MDRS and NPS-UD implementation.

We consider that will sufficiently address concerns, while supporting the intent of the Bill. However, we are also undertaking further work to see if any other measures are needed to support councils to manage the infrastructure impacts of the Bill.

The MDRS may require councils to recalibrate how they use funding and financing tools to support infrastructure provision to support growth. These may include updating development contributions policies under the Local Government Act 2002 to better reflect the additional growth enabled by the MDRS, and consideration of the wider use of tools such as targeted rates.

Submissions about infrastructure funding and financing is outside of the scope of the Bill. Infrastructure funding and financing is a complex and long-standing issue. It has different stakeholders and different impacts than land use regulation. It involves a wide range of sectors including transport, local government, building and construction, telecommunications, electricity market and economic development. As there needs to be alignment between the funding and regulatory mechanisms across these sectors, a cross-government response is desirable.

We note here are a range of government work programmes already looking at infrastructure funding and financing issues such as, Resource Management Reform, the Infrastructure Strategy, the Future for Local Government Review, the Urban Growth Agenda, and Three Waters reform.

The Government also passed legislation to create a new infrastructure funding and financing mechanism (the Infrastructure Funding and Financing Act 2020), with implementation well underway. This new mechanism will have an impact in some areas.

1.5 Overarching issue – climate change

Councils, iwi and Māori, industry experts, community groups and individuals commented on the impact the Bill will have on New Zealand's ability to mitigate, and adapt to the effects of, climate change.

While some submitters considered that the Bill was a positive step forward for enabling low-emissions urban areas, others suggested the mitigation potential of intensification would only be fully realised if development is located near areas that are well-serviced by adequate infrastructure, with access to public parks (including green spaces), and active and/or public transport routes.

Submitters, including the New Zealand Green Building Council (NZGBC), commented on opportunities for new dwellings to meet low-emissions and energy efficient standards.

Response

The Government is committed to responding to climate change and meeting our emissions budgets and targets. Consultation on a discussion document to inform the Emissions Reduction Plan closed on 24 November 2021. The Government will publish its final Emissions Reduction Plan in May 2022.

Further intensification of existing urban areas allows us to maximise opportunities to encourage mode shift, support greater uptake of public and active transport, and more efficient use of infrastructure.

Submissions about opportunities to support low emissions building standards are outside the policy scope of the Bill. These are being considered through the MBIE-led Building for Climate Change Programme.

1.5 Summary of key recommended changes

All recommended changes are shown clause by clause at the end of this report. These include minor and technical recommendations.

Recommended change	Rationale
The Intensification Streamlined Planning Process	
We recommend broadening the scope of the ISPP, so it can also be used to: • change provisions (including objectives, policies, rules, standards, and zones) that are consequential and complementary of the MDRS and NPS-UD intensification policies • enable provision of papakāinga For the avoidance of doubt, the ISPP may include provisions relating to subdivision, fences, earthworks, district-wide matters, infrastructure, qualifying matters, hydraulic neutrality/stormwater management.	The ISPP scope currently enables councils to do three things: • incorporate the MDRS into plans • implement the NPS-UD intensification policies • review financial contributions provisions. Several submitters including the New Zealand Law Society provided feedback that the scope of the ISPP is too narrow, and it would be beneficial to include other changes. Broadening the scope will allow councils to develop more comprehensive plans and remove other provisions that limit intensification. It will also remove the need to carry out multiple plan change processes in some cases – although we do not recommend expanding the scope as much as some submitters requested (e.g. full plan reviews would not be able to go through the ISPP as appeals are still appropriate for things such as significant natural areas).
We recommend clarifying that existing plan provisions that are not inconsistent with the Bill continue to have effect.	Submitters raised concerns about whether existing plan provisions that are unaffected or critical for environmental protections would continue to have effect. The policy intent is for these to continue to have effect, and only matters in the scope of the Bill will be affected and updated through the ISPP. Amendments to the scope of the ISPP ensure this intent is clear and that plans continue to be comprehensive documents.

We recommend including tikanga capability in the composition of the Independent Hearings Panel, and that the appointment of this member should be made in consultation with relevant iwi authorities.	This recommendation addresses the concerns of some iwi submitters who wanted to see more clarity around iwi participation and/or consideration of tikanga in the ISPP process.
We recommend adding a clause to give councils confidence that if a qualifying matter (excluding "other matters") has been through a plan making process, significant evidence does not need to be provided and the matter is not relitigated through the ISPP. The matter can be carried across, and council's assessment will be focused on how to accommodate the qualifying matter through appropriate heights and densities. This should not apply to the "other matter" qualifying matter category.	This recommendation is to address concerns from councils, iwi and stakeholders (including infrastructure providers) that provisions (for example to protect heritage, cultural sites of significance to Māori and reverse sensitivity effects on infrastructure) that have been through a public process can be carried across without significant rework and evidence.
The package of Medium Density Residential Standards	
We recommend reducing the height in relation to boundary from 6m and 60° to 5m and 60°.	This proposal responds to concerns from some submitters about daylight loss and shading. A reduction to 5 metres will reduce some sunlight loss by neighbours, while maintaining as much flexibility and yield as possible.
We recommend reducing the front setback from 2.5m to 1.5m.	This recommendation addresses concerns from some submitters that 2.5m is too small to be useful and is generally an inefficient use of space. Many submissions proposed bringing buildings and their bulk and windows forward towards the street. This will enable better use of open space at the rear of sites.
We recommend deleting the impervious area standard as this can be managed as a district wide matter.	Permeability is still important, and the deletion of this standard will not mean the land could be impermeable – simply that it is better managed through council's district wide matters than a MDRS.

We recommend increasing the outdoor living for ground floor units from 15m^2 to 20m^2.	This recommendation addresses some of the liveability concerns raised by submitters.
We recommend increasing outlook space to: • 4m x 4m (w x d) outlook space for principal living room window and 1m x 1m for all other windows in habitable rooms. We also recommend making clarifications about how outlook spaces can be configured in relation to one another - such as stacked in an apartment.	This recommendation addresses some of the liveability and lighting concerns raised by submitters.
New standard: We recommend requiring 20% of front façade to be glazed.	This recommendation addresses some of the design concerns raised by submitters.
New standard: We recommend allowing developers to choose if outdoor space can be grouped, and used communally, rather than provided per unit.	This recommendation will allow more flexibility. Where taken up, it will address liveability and design concerns such as townhouses only having a very small outdoor space.
New standard: We recommend requiring that 20% of a site is landscaped with grass or planting. The landscaped area can include the canopy of trees regardless of the ground treatment below it. The monitoring requirement may occur only once at or within 12 months of construction completion.	This recommendation addresses some of the design, liveability, and tree concerns raised by submitters. We recommend limiting the standard to a point in time, as councils lack ongoing capacity to monitor and enforce how people choose to maintain this landscaping. As anyone can take enforcement under the RMA, there would also be a risk that people who choose to use their site differently may face legal action from neighbours or others.

Additional recommendations on the Medium Density Residential Standards	
We recommend that the MDRS apply to all residential zones in tier 1 council plans.	The Bill currently requires the MDRS to be applied to residential zones in "urban environments". Under the Bill, councils will be required to determine the extent of their urban environment based on two factors – whether an area of land is or is intended to be predominantly urban in character **and** is or is intended to be part of a housing and labour market of at least 10,000 people. These criteria are likely to be difficult to apply in practice. Councils have requested more certainty about where the MDRS applies. We recommend clarifying that all residential areas in a tier 1 territorial authority are in scope. This will include all residential zones across tier 1 districts, including many small towns. Development opportunities will not be taken up to the same extent in small towns, but it is appropriate to afford the people in those areas the right to develop without needing a resource consent should they choose to do so. While people in these areas might not develop medium density housing, they may want to extend or renovate their existing properties. A benefit of the MDRS is applying for a resource consent will become simpler, making it quicker and easier when building or renovating a home.
We recommend clarifying that a council may omit any of the standards when they adopt the MDRS into their plans.	This would give councils some discretion over how they implement the MDRS (e.g. councils may not want to require balconies as they do not require them currently).
We recommend adding objectives and policies that councils adopt alongside the MDRS. These objectives and policies will be added in relevant zones. **Objective 1:** Well-functioning urban environments that enable all people and communities to provide for their social, economic, and	Several submitters requested objectives and policies be added as well as the standards, so the MDRS can become a whole residential zone.

cultural wellbeing, and for their health and safety, now and into the future. **Objective 2:** The zone provides for a variety of housing types and sizes that respond to: (a) Housing needs and demand (b) The neighbourhoods' planned urban built character of predominantly three-storey buildings (c) Qualifying matters, matters of national significance such as historic heritage, the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga. **Policy 1:** Enable a variety of housing typologies with a mix of densities within the zone, including three-storey attached and detached dwellings, and low-rise apartments. **Policy 2:** Apply the zone across the residential areas of the urban environment except in circumstances where a qualifying matter is relevant. **Policy 3:** Encourage development to achieve attractive and safe streets and public open spaces including by providing for passive surveillance. **Policy 4:** Require housing to be designed to meet the day-to-day needs of residents by requiring: (a) access to daylight (b) providing outlook (c) useable and accessible outdoor living space (d) landscaped areas. **Policy 5:** Provide for the development of four or more residential units or developments which do not meet the building standards, while encouraging high-quality developments.	

We recommend that the MDRS apply to land which is designated for schools so that they can also benefit from the standards.	This would enable schools to add additional storeys where they want to expand, rather than removing more of their green spaces for classrooms. Most schools are in land zoned residential so this may be more of a clarification than anything else.
We recommend a change to clarify which parts of plans will have immediate legal effect – that it only relates to specified standards in the MDRS and the MDRS objectives and policies. Immediate legal effect will not apply where a council proposes enabling a current higher height, but also where they recommend including other more enabling versions of the standards (e.g. greater site coverage), including to give effect to the NPS-UD. (Qualifying matter areas, and rezoned land would continue to not have immediate legal effect).	This will ensure standards and rules not included in the MDRS (and therefore which have not been through a public process) do not take immediate legal effect before they have been consulted on publicly.
We recommend clarifying that councils modify the MDRS and NPS-UD intensification policies to accommodate qualifying matters where there are present.	Several submitters were concerned that there was no obligation on councils to modify the intensification requirements of the Bill to accommodate qualifying matters.
We recommend adding Te Ture Whaimana (Vision and Strategy for the Waikato River), and other iwi participation legislation, if appropriate as a qualifying matter for the MDRS and NPS-UD intensification policies.	This responds to a request from Waikato-Tainui and the Future Proof councils to explicitly include Te Ture Whaimana as a qualifying matter. This is to ensure objectives of the strategy can be upheld. We are undertaking further analysis to ensure the reference to iwi participation legislation, national direction and other legislation that interacts with the RMA is appropriately reflected in the qualify matters.

Tier 2 and 3 councils	
We recommend that the Minister for the Environment consults with the Minister for Māori Crown Relations before directing a tier 2 council to implement the MDRS via the ISPP. The Minister for the Environment must already consult the Minister of Housing.	This proposal responds to submissions by iwi groups for greater prominence of the Māori Crown relationship.
We recommend allowing any other council to ask the Minister for Environment to implement the MDRS via the ISPP.	This proposal would give tier 3 councils the ability to use the MDRS if a supply response is required to meet acute housing need.
Existing plan changes ("the transitional provisions")	
We recommend overhauling the transitional provisions which relate to existing plan changes and full plan reviews. We recommend removing the current requirement to withdraw proposed district plans or private plan changes when the hearing has not been completed by 20 Feb 2022 and instead use "variations" in most cases.	These changes aim to ensure that private and council led plan changes that are in train at the time of enactment can be transitioned appropriately. The Bill currently requires these to be withdrawn. This does not deliver good outcomes for private plan changes as parties will in some cases have contributed significant time and costs to progress them. Requiring plan changes to be withdrawn would delay the delivery of housing in some districts.
Other Matters	
We recommend clarifying that: • subdivision around dwellings that meet the MDRS or have been approved through a resource consent is a controlled activity • subdivision consent of residential units in accordance with the MDRS or an associated land use consent must not be publicly notified or given limited notification	This proposal responds to submitter concerns that sites could be subdivided several times to allow for an ever-increasing number of houses to be built on smaller and smaller sites. If more than three units are to be built on a site it is appropriate for them to go through a Discretionary Restricted resource consent. We consider that it is more appropriate for the financial contributions provisions to be subject to consultation through the ISPP before they have legal effect.

• the subdivision is not allowed to create any vacant lots, unless the district plan stipulates this (determined by the council and subsequent decision-making) • rules incorporating financial contributions provisions in proposed plans that go through the ISPP do not have immediate legal effect.	

Chapter 2 Intensification Streamlined Planning Process

This chapter covers all of Subpart 3 – Relevant territorial authority must notify intensification planning instrument and the new Part 6 of Schedule 1.

Background

The Bill creates a new streamlined process so tier 1 councils in Auckland and greater Hamilton, Tauranga, Wellington and Christchurch can implement the NPS-UD faster. The new intensification streamlined planning process (ISPP) is based on the current streamlined planning process (SPP) in the RMA.

The ISPP has been designed to provide an expedient process for plan changes to implement the MDRS, NPS-UD's intensification policies and other consequential changes. The tier 1 councils of Auckland, and greater Hamilton, Tauranga, Wellington, and Christchurch are required to use it and must notify their relevant plan changes (called intensification planning instruments) by 20 August 2022.

The ISPP steps have checks and balances and require public participation, including submissions and a hearing held by an independent hearings panel (IHP). The IHP makes recommendations to the council so it can make decisions. If the council does not agree with the IHP's recommendations, the Minister for the Environment is the decision maker.

A direction set by the Minister for the Environment will set out the timeframes and some other process requirements (including reporting and a statement of expectations) for the ISPP.

There are no rights of appeal. Judicial review rights remain.

- 19 submitters were specifically in favour of the ISPP
- 11 submitters were specifically opposed to the ISPP.

2.1 Use of the ISPP

CLAUSE 8 Notification of an Intensification Planning Instrument

Explanation

New section 80F limits the use of the ISPP by providing a date by which the IPI must be notified. This date is 20 August 2022, which replicated the notification date in the NPS-UD.

New subsection 80G(1)(a) limits the ISPP to only one IPI that cannot be withdrawn. An IPI cannot be used for any purpose other than those specified in the Bill.

Summary of submissions:

- Submitters that were supportive of the ISPP noted the benefits it provides in enabling expedient housing intensification.
- Ngāti Whātua Ōrākei support the use of the ISPP.

- The limitation/removal of appeals was a particular concern of those who opposed the ISPP.
- Tauranga City Council and Wellington City Council sought to be able to use the ISPP more than once to resolve future issues (e.g. changes in transport infrastructure or population growth).
- Wellington City Council, Kāpiti Coast District Council and Selwyn District Council asked to allow the ISPP to be used multiple times or for more than one instrument to be notified at a time.
- The Environmental Defence Society submitted the ISPP was not necessary given the availability of the SPP.
- Porirua City Council requested to use the SPP instead of the ISPP and to undertake a broader plan change/plan review.

Response

The ISPP is modified from SPP with changes designed to increase local decision making, recognise its mandatory use and remove the application process. Councils can use SPP for other plan changes which meet significant community need or implement National Direction. SPP is designed to be used once as the process is proportionate to the plan change.

ISPP is designed to be proportionate to the plan changes required by the Bill. The notification date and steps have been specified in the Bill to provide certainty for councils and the public, and for efficient implementation.

A significant benefit of requiring tier 1 councils to use the ISPP once is the certainty it provides developers and communities about the planning process for housing intensification.

Changes to the scope of the ISPP, will address some submitters' concerns about multiple plan change processes being necessary. These are discussed in more detail below. Where a council needs to make further changes to its plan beyond the scope of the IPI to implement the NPS-UD, it can use the normal schedule 1 of the RMA or apply to use the SPP.

The notification timeframe and ISPP have been designed to implement the NPS-UD and MDRS urgently to address the housing crisis.

Recommendation

We recommend no change to clause 8 on the use of the ISPP.

2.2 The Minister's direction

CLAUSE 8 The Minister may make a direction

Explanation

New section 80I enables the Minister for the Environment to make direction(s) which set out requirements including: the number, experience and qualifications of IHP members, time periods, reporting requirements and a statement of expectations.

Summary of submissions:

- Wellington City Council and other submitters were concerned the time taken to make a direction could impact on a council's ability to plan for and resource the ISPP.

- Submitters generally raised concerns the direction gives power to the Minister for the Environment without appropriate checks and balances.
- Environmental Defence Society noted that the direction should be considered not only by councils when they are applying the MDRS but through later parts of decision making on the IPI.
- Submitters expressed concern that implementation timeframes will be difficult to meet.

Response

The ISPP steps are prescribed in the legislation, with the Minister for the Environment's direction setting further detail such as timeframes, membership, expertise of the IHP, reporting requirements, and a statement of expectations.

We consider it appropriate for the Minister for the Environment to set the process detail for the ISPP. It is a similar approach to the existing SPP. It is important to provide some flexibility so the Minister for the Environment can identify specific environmental, social, or cultural matters in an area that require additional consideration in the process.

The direction will set out the timeframes for the ISPP. The Ministry for the Environment and Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development (HUD) will consult with councils on these timeframes to ensure they are workable. It is anticipated the ISPP will need to be completed in less than 12 months to ensure there is certainty and consistency across council plans in directing and enabling intensification.

The policy intent is for the direction to have an enduring influence on decisions throughout the process. We note that some additional drafting is needed to ensure this is clear in the Bill.

Recommendation

We recommend that the Bill should be amended to clarify the direction is considered throughout the ISPP and that decision makers must have regard to the content of the direction.

2.3. Scope of the ISPP

CLAUSE 4 Definition of an intensification planning instrument

Explanation

Section 2 is amended to include a definition of the intensification planning instrument (IPI). This is confined to being a change to a district plan or plan variation for the purposes of:

- incorporating the MDRS into plans
- incorporating the NPS-UD intensification policies into plans
- reviewing financial contributions provisions.

Ability to rewrite zones and related provisions

Summary of submissions

- Several councils noted the Bill may not enable them to rewrite zone chapters to implement the MDRS, including where changes are necessary to be consistent with the national planning standards.
- Submitters raised the following points:
    - the scope of what can be included in an IPI is too narrow
    - requests to use the IPI/ISPP for full plan review processes
    - clarity is needed on what cannot proceed through the ISPP
    - the need to ensure that plans are comprehensive frameworks
    - whether other council plan provisions remain unaffected by the Bill.
- Tauranga City Councils and other councils suggested the ISPP should be available to all councils for growth related plan changes.
- Submitters queried whether the following rules/standards can be included in the IPI and go through the ISPP, noting it is essential the ability for District Plans to provide these rules/standards and other engineering standards is retained:
    - earthworks
    - waterway setbacks
    - significant natural areas
    - subdivision provisions
    - district wide standards
    - hydraulic neutrality
    - noise insulation
    - lighting
    - fencing
    - landscaping
    - setbacks from railway lines and/or transmission lines
    - airport noise corridors
    - water supply for firefighting
    - infrastructure
    - roading
    - waste management
    - community facilities
    - natural/open space
    - industrial and town centres,

- cultural values
- natural hazards
- designations
- transport matters (such as design of safe access ways including pedestrian, cycle parking, and accessible parking).

Response

We recognise that if the scope of the IPI is too narrow, it will result in provisions (including objectives, policies, rules and standards) left in plans that may not enable the intensification sought by this Bill. It may also require councils to undertake multiple plan change processes. This will be confusing, costly and time consuming.

The policy intent was to have a concise scope to avoid confusion and give certainty. As the MDRS and NPS-UD are directive in their outcomes and application, the ISPP was designed accordingly, and the removal of appeal rights was deemed appropriate. Consideration was also given to the amount of work councils need to do by 20 August 2022.

We now consider the scope of the ISPP needs to be broadened. Councils should be able to use the IPI to enable to amend or develop provisions (including objectives, policies, standards, rules and zones) that are consequential or complementary to the MDRS and NPS-UD. This includes provisions relating to district wide matters (i.e. subdivision, fences, earthworks, infrastructure, and hydraulic neutrality/stormwater management). Such provisions can have their own chapters in plans, others are covered in 'district wide' chapters, and therefore amendments to relevant content in district wide chapters should also be able to be included in the IPI.

Councils often manage district wide matters relating to technical infrastructure matters through chapters in their plans that have district wide effect. The ability to adjust these measures through the ISPP will both allow councils to manage infrastructure issues and support MDRS and NPS-UD implementation.

We also recommend that the Bill clarify that provisions in plans that do not conflict with the MDRS will continue to have effect (an example of this is environmental protection provisions such as setbacks from waterways).

Councils should be able to rewrite zoning frameworks to improve drafting and to implement the national planning standards.

The ISPP has not been designed for full plan reviews. We do not think it is appropriate for the ISPP to be used for this purpose, particularly as there are likely to be matters where it would not be appropriate to have no appeal rights (e.g. significant natural areas). However, we acknowledge that some full plan reviews are underway and having multiple plan processes is inefficient. The **transitional** section of this report outlines our recommendations on this issue.

Recommendation

We recommend that the scope of the IPI is broadened to enable consequential and complementary changes to provisions including objectives, policies, rules, standards and zones. For the avoidance of

doubt this should include provisions relating to subdivision, fences, earthworks, district-wide matters, infrastructure, qualifying matters, and hydraulic neutrality/stormwater management.

We also recommend clarifying that provisions unaffected by the Bill will continue to have effect.

Papakāinga and broader NPS-UD implementation

Summary of submissions

- Submitters wanted to use the IPI/ISPP to implement the whole of the NPS-UD, not just the intensification policies (policies 3 and 4 for tier 1 councils, policy 5 for tier 2 councils).
- Kāpiti Coast District Council and other submitters sought clarification on whether papākāinga provisions could be incorporated into the ISPP.
- Submitters sought to be able to incorporate papakāinga provisions through the IPI/ISPP.
- Makaurau Marae Maori Trust were concerned about the impacts of the Bill on papakāinga. They were concerned that the Bill would be inconsistent with the values and characteristics of papakāinga, including, but not limited to, densities inconsistent with existing Maori Special Purposes zones.
- The Greater Christchurch Partnership noted that the Bill "makes no specific provision for expediting the development of Māori owned land. More specificity within the Bill providing for housing on Māori owned land, within and outside of urban areas, would provide the necessary policy platform for mana whenua to springboard housing developments with fewer policy and consenting barriers".
- Similarly, City for the People recommended exemptions from planning rules for iwi-led housing development on whenua Māori (eg, papakāinga and community housing) to recognising tino rangatiratanga of Māori over their whenua.

Response

We agree that councils should be able to use the ISPP for implementing papakāinga provisions.

Papakāinga provisions can lead a matauranga-informed approach to housing and present another avenue to enable more housing of varying types. Therefore, adding papakāinga provisions to the scope of the ISPP meets the intent of the Bill to increase housing supply.

Recommendation

We recommend the scope of the IPI be amended to allows councils to introduce or modify changes to provisions enabling papakāinga.

Qualifying matters

Summary of submissions

- Submitters expressed concern the Bill may not allow the ISPP to be used to implement measures to restrict density where a qualifying matter has been identified.
- Hutt City Council submitted it would have to run several simultaneous plan processes for this purpose, which would be confusing.
- Wellington City Council submitted they would like to progress their full plan review through the ISPP and this would include plan changes for Significant Natural Areas.
- Submitters sought clarification as to whether provisions relating to qualifying matters could be updated through the IPI/ISPP.

Response

We agree that as drafted the Bill is unclear in this respect. Qualifying matter assessments and specific environmental and cultural protections will be required as a result of the Bill and therefore provisions relating to, for example, natural hazards, significant natural areas and heritage may be required, therefore they should be able to be considered in scope.

Recommendation

We recommend clarifying that implementing mechanisms to restrict density where a qualifying matter has been identified are in the scope of the IPI.

Regional Policy Statements

Summary of submissions

- Nelson City Council requested clarity that the ISPP does not apply to regional policy statements or regional plan changes.
- Submitters expressed concern that higher order planning documents (such as regional policy statements) may be inconsistent with the Bill.
- Nelson City Council considered that regional policy statements should be able to be updated through the IPI.

Response

The ISPP has been designed for territorial authority plan changes, not changes to regional policy statements and regional plans. However, there are sometimes specific objectives or policies in regional policy statements that relate to density that may conflict with the application of the MDRS. Therefore, we recommend some changes to clarify that provisions in operative or proposed regional policy statements that are inconsistent with the MDRS must not be considered in consenting or in district plan making drafting decisions.

Recommendation

We recommend that in the instances where there are conflicts between a regional policy statement and the outcomes sought through the MDRS and NPS-UD implementation, these provisions are disapplied in drafting provisions and in consenting decisions.

2.3 Iwi and Māori consultation

Clause 14 Intensification Streamlined Planning Process

Explanation

The requirement to consult with iwi authorities on the IPI is the same requirement as for a standard plan change process. These requirements apply to the draft plan change before public consultation and include:

- complying with Mana Whakahone a Rohe agreements
- complying with relevant iwi participation legislation
- consulting Iwi authorities on the draft plan change
- councils having particular regard to iwi authority feedback on the draft plan change.

Summary of submissions

- New Plymouth District Council stated the Bill needs further consideration to address the ability for tangata whenua to consider the impact of intensification and engage in structure planning and consent processes.
- Te Arawa Lakes Trust proposed that Te Tiriti partnerships are appropriately reflected by having hapū and iwi co-develop IPIs and be involved in the decision-making on the final form of IPIs, along with territorial authorities. The trust considers this would ensure concerns are addressed early in the ISPP process and that MRDS with immediate legal effect are agreed to by hapū and iwi. One option suggested was establishing territorial authority/tangata whenua committees with delegated power to make decisions on IPIs.
- Submitters generally sought more consultation including consultation with iwi authorities.

Response

These clauses as drafted are identical to consultation requirements in the Resource Management Act. The policy intent of the ISPP is to match these clauses for efficient implementation and certainty for iwi authorities and councils. Councils must undertake pre-consultation notification under Section 4 of Schedule 1 of the RMA. They can involve iwi/Māori earlier in the IPI development process by choice.

Changes are proposed in other sections of the Bill to require panel appointments to include tikanga expertise and iwi authority representation.

Recommendation

We recommend no change to iwi and Māori consultation on the IPI.

2.4 Public participation

Clause 14 Intensification Streamlined Planning Process

Explanation

Public participation in the ISPP references the parts of the RMA that require public participation and include all of the public participation steps in the Resource Management Act. The ISPP includes opportunities for public participation through submissions, further submissions, pre-hearing mediation (which is an optional step) and a hearing.

Summary of submissions

- Tasman District Council submitted that further submissions add little and they should be removed as a step in the ISPP.

Response

Further submissions act as a check and balance by providing evaluation and response to submissions. Further submissions do not add a significant delay to the overall timeframes. The time taken with further submissions is proportionate to the scope of the proposed plan changes.

Recommendation

We recommend no change to remove further submissions.

2.5 Appointment and expertise of independent hearing panels

CLAUSE 14 Intensification Streamlined Planning Process

Explanation

New clause 96 of Schedule 1 requires relevant councils to establish an IHP to conduct a hearing of submissions on the IPI, make recommendations to the relevant territorial authority, and delegate the council's functions that are necessary to enable the IHP to carry out its role.

Summary of submissions

- Submitters expressed concern with the lack of requirement for there to be mandated tikanga capability/expertise on IHPs.
- Te Arawa Lakes Trust submit that they consider that the IHP plays a critical role in determining the final form of IPIs. As such, the Trust considers it is critical that IHPs contain membership that have Te Ao Māori skills, a working knowledge and experience of Treaty matters and on the ground knowledge of housing issues faced by local hapū and iwi. The Trust further considers that appointments to IHPs should be made in conjunction with local hapū and iwi.

Response

We support the inclusion on tikanga capability/expertise on IHPs. The Bill does not include this provision, given section 34(A)(1A) of the Resource Management Act provides a similar requirement. Adding a requirement to appoint appropriate tikanga expertise to the panel adds certainty and clarity.

Recommendation

We recommend amending the Bill to clarify that tikanga expertise that iwi authorities consider appropriate should be required in the appointment of the independent hearing panel.

2.6 Joint independent hearing panels

CLAUSE 14 Intensification Streamlined Planning Process

Explanation

New section 96 sets out how councils must establish IHPs.

Summary of submissions

- The submission from Futureproof councils requested a clarification that joint hearings could be available to councils. A joint hearing would have a single independent hearing panel conducting hearings for multiple territorial authorities.

Response

The Bill does not prevent councils from deciding to progress a joint hearing and we do not consider it necessary to specify in the Bill.

Recommendation

We recommend no change.

2.7 Matters the IHP may consider

CLAUSE 14 Intensification Streamlined Planning Process

Explanation

New clause 99 allows the independent hearing panel to make recommendations:

- outside of matters covered by submitters and
- any other matters identified by them or any person in the hearing

Summary of submissions

- Selwyn District Council wanted the IHP's scope to be limited to points made in submissions.
- The New Zealand Law Society noted that allowing the IHP to make recommendations outside the scope of submission is a significant departure from the usual approach, and that additional procedural parameters ought to be put into place
- The Environmental Defence Society wanted to expand this clause so the IHP and the Minister must identify and make recommendations on any relevant qualifying matters even if a council has not done so.

Response

We consider the Bill provides sufficient flexibility and oversight as drafted. Subsection 2(b) limits what the IHP can consider to matters identified by them or any other person during the hearing. This means that there is a public record of any other matters considered while maintaining the IHP's independent oversight on their recommendations. This requirement that recommendations are based on points made in public submission or public hearings should be clarified.

Recommendation

We recommend clarifying new clause 99 to specify that any recommendations not in submissions must be identified by the panel or another person during the hearing.

2.8 Decision making

CLAUSE 14 Intensification Streamlined Planning Process

Explanation

A key difference between the ISPP and the existing SPP is the decision-making. For the SPP, the Minister for the Environment is the only decision maker. In ISPP, the council is the substantive decision maker, with the IHP only making recommendations and the Minister for the Environment acting as a check and balance where there is disagreement.

Summary of submissions

- Submitters expressed concern about central government making decisions about local matters.
- Ngā Maunga Whakahii o Kaipara submitted that iwi authorities should be included in the decision-making process with the Minister for the Environment making the final decision.

Response

The Bill provides for local decisions on IPIs within an expedient process. However, this local decision-making must be balanced with the significant need for housing intensification and recognition of the role of status quo bias. Therefore, the Minister for the Environment has an important role as the decision maker where agreement cannot be reached.

We consider the current provisions in the Bill enabling iwi authorities to provide feedback on draft IPIs and our proposed changes to ensure iwi representation on IHPs are an appropriate way to ensure an iwi authority's views are included throughout the process.

Recommendation

No change recommended.

2.9 Appeals on plan changes

CLAUSE 14 Intensification Streamlined Planning Process

Explanation

New section 106 limits the right of appeal in the ISPP.

Summary of submissions

- There were mixed views on the lack of appeal rights in the ISPP.
- Those who supported the lack of appeal rights viewed them as a cause of uncertainty and cost.
- Those opposed to the lack of appeal rights framed them as a loss of democracy and natural justice.
- Other points raised by those concerned about lack of appeal rights included:
    - the Environment Court is a specialist jurisdiction that is well placed for the speedy resolution of appeals
    - the appeals process under the AUP could be a successful example to follow
    - the rezoning of greenfield or rural land on urban boundaries
    - section 6 protection under the RMA may not have been accurately identified
    - the impact for nationally significant infrastructure
    - impingement on the right of homeowners
    - the speed of decision-making may lead to errors for which there would be no recourse.
- Submitters expressed concern about appeals being removed from further aspects of resource management.

Response

We do not recommend changing the right to appeal decisions on the intensification planning instrument. Litigation is often used by existing residents to maintain the status quo and delay change. Limiting the right of appeal on housing intensification achieves the policy intent of the Bill.

The ISPP provides appropriate checks and balances for decisions to intensify housing including:

- The intensification in the Bill is specific and directive, with the standards being tested through the select committee
- Qualifying matters are a tool to protect and modify densities where appropriate
- There are opportunities for public participation – through submissions, further submissions and an independently run hearing
- The independent hearing panels
- The Minister for the Environment as the decision maker, where there is disagreement.

Planning processes without appeal rights have been used to make similar changes for urban development. The streamlined planning process, the freshwater planning process, the Auckland Unitary Plan process, and the Canterbury Earthquake Recovery Act are all planning processes that have limited the right to appeals. The ISPP is a modified version of the SPP that without the Bill councils could have applied to use. A similar planning process for this intensification support efficient implementation.

Chapter 3 Medium Density Residential Standards (MDRS)

This chapter covers the requirement to incorporate medium density residential standards into district plans (clauses 7 of the Bill) and all of Schedule 1 – MDRS to be incorporated by relevant territorial authority.

The MDRS set a minimum level of development that councils must allow. The standards enable landowners to build up to three storeys and three dwellings on most urban residential sites without the need for a resource consent. The MDRS will replace existing council building standards in those areas, noting that district-wide matters will be retained. The MDRS are designed to work together as a package and enable a range of housing types and sizes.

3.1 The requirement to incorporate the MDRS

CLAUSE 7 The requirement to incorporate the MDRS

Explanation
New section 77F requires a relevant council to incorporate the MDRS into its district plan for the relevant residential zones, using the intensification streamlined planning process (ISPP) described in new section 80F and new clause 95(1) of Schedule 1 of the Act or, if the ISPP is inapplicable, other plan-making processes in the Act.

Housing supply and spatial distribution

Summary of submissions

- There were mixed views on the MDRS and their ability to increase housing supply.
- Those in favour noted the MDRS would enable more homes to be built in locations where people want to live. This reduces timeframes and increases certainty for developers, particularly smaller developers, saving costs and time.
- Kāinga Ora – Homes and Communities submitted the MDRS would provide it with greater flexibility to build a wider range of housing forms. This will assist it to deliver public housing and limit the impacts on existing tenants. It noted the additional benefit would come from a combination of implementing medium density zoning in more locations and the greater extent to which the standards are enabling.
- Community Housing Aotearoa noted the MDRS will make it easier for its members to build, but could also raise land prices in some locations, making it more expensive.
- Those opposed to the MDRS challenged the notion that making it easier to build housing would lead to more houses being built. These submissions referred to recent Housing and Business Development Capacity Assessments (HBAs), which showed there is sufficient development capacity to meet market demand in some cases.

- Other points raised by submitters included:
    - a request that the MDRS not apply to all residential zones
    - the ability to target application of the MDRS to areas where there is existing or planned infrastructure capacity to support intensification and ensure development is integrated with active and public transport routes
    - a general residential zone with lesser enabling rules, including two-stories
    - a concern that applying the MRDS across residential areas would incentivise developers to densify areas away from town centres and transport corridors, with negative unintended consequences on NPS-UD intensification policies
    - a concern the MDRS would enable developments at further distances form employment and services, requiring greater travel by car and increasing carbon emissions.
- Templeton Group suggested the MDRS should not apply to master planned areas, as this would limit the ability for developments to reflect master plans.

Response

The intent of this Bill is to rapidly accelerate the supply of housing. It is government policy for the MDRS to apply to all residential zones.

Allowing councils to pick the areas to apply the MDRS would create significant uncertainty for councils, create more work, and delay implementation. It would also be similar to the current situation that has led to medium density housing being concentrated in areas of less demand (e.g. Henderson-Massey in Auckland and Kilbirnie and Johnsonville in Wellington).

There is a wide range of local and international evidence that shows that when planning rules are more enabling, the market responds with more housing supply, where there is demand. This evidence includes the cost benefit analyses on the NPS-UD and MDRS. Evidence also shows that benefits and costs arise commensurately. This means that if the housing does not arise, both benefits and costs will be lower but there will still be a net benefit.

We do not consider that the MDRS will incentivise inaccessible development, relative to the status quo. This is because development is typically more constrained at present in highly accessible areas and greatest demand, with development occurring in greenfield or outer suburbs. We also consider that housing choice is still appropriate in most areas so that people can have a choice of housing type within their own community and every neighbourhood.

Regarding Auckland, although the council's HBA found the Auckland Unitary Plan enables sufficient development capacity, the HBA and other evidence from the council and PwC shows that the AUP's single house zone and other low-density zones in high demand areas are constraining housing supply, choice, and affordability. Currently development capacity enabled by the plan is not located in areas that are well connected to jobs or the highest in demand. For example, the Henderson-Massey local board area is estimated to provide 12.4% of additional residential capacity under the AUP and Howick 10.7%. The HBA also found that the new capacity expected to be realised could be negligible or incompatible with a large share of the population – that is households with intermediate incomes not being not being able buy houses that they can afford.

Areas that are close to the city are much less enabled and have experienced a low level of development to date. Inner-city suburbs like Herne Bay, St Mary's Bay, Grey Lynn, Mount Eden, and Remuera have not had an increase in housing density compared to suburbs with lower land value. The Waitemata local board area, which is the closest to the centre city, is estimated to provide 1.5% of additional residential capacity under the AUP and Albert-Eden 4.6%.

This pattern has also been found in other centres. Almost 90 per cent of Wellington City's inner-city suburbs have strict character controls that significantly restrict development.

Suburbs close to the centre of Hamilton that are well serviced by services and infrastructure have seen low levels of housing development. About half of recent housing growth in Hamilton has been in greenfield – areas with typically poor access and high infrastructure costs.

We do not consider that greenfield development, including those that are master planned, should be exempt from the MDRS. The MDRS will encourage greenfield land to be used efficiently, and developers have a range of mechanisms to ensure developments are in line with plans, such as private agreements and covenants.

Definition of urban environments

Explanation

The Bill currently requires the MDRS to be applied to residential zones in "urban environments".
Under the Bill, councils will be required to determine the extent of their urban environment based on two factors – whether an area of land is or is intended to be predominantly urban in character **and** is or is intended to be part of a housing a labour market of at least 10,000 people. These criteria are likely to be difficult to apply in practice.

Summary of submissions

- Councils have requested more certainly about where there MDRS applies.

Response

We recommend clarifying that all residential areas in a tier 1 territorial authority are in scope. This will include all residential zones across tier 1 districts, including many small towns. Development opportunities will not be taken up to the same extent in small towns, but it is appropriate to afford the people in those areas the right to develop without needing a resource consent should they choose to do so. While people in these areas might not develop medium density housing, they may want to extend or renovate their existing properties. A benefit of the MDRS is applying for a resource consent will become simpler, making it quicker and easier when building or renovating a home.

Recommendation

We recommend that the MDRS apply to all residential zones in Tier 1 council plans.

Policies and objectives

Explanation

Supporting objectives and policies were not included in schedule 3A to ensure the Bill remained simple and concise for councils.

Summary of submissions

Submitters identified that objectives and policies should be drafted into the Bill as it is difficult for councils to draft the objectives and policies for their respective plans as they are not privy to the intent of each standard. For example, the New Zealand Planning Institute requested that the MDRS be amended to become a full medium density zone.

Response

We consider that providing objectives and policies will give councils more guidance and reduce the work that will need to be done to enact the MDRS into their plans and allow for a more consistent approach to ensure the intent of the MDRS standards are achieved. Objectives and policies will also lead to more consistent decision making when councils consider consents for development that exceed the MDRS.

Recommendation

We recommend adding specified objectives and policies for the MDRS, contained in a Schedule of the Bill. Councils would be required to insert them into relevant zones. Councils may add to the objectives and policies, to provide for place specific circumstances, and linking to relevant matters of discretion for the assessment of restricted discretionary resource consents. The recommended objectives and policies are as follows.

Objectives

Objective 1: Well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.

Objective 2: The zone provides for a variety of housing types and sizes that respond to:
(a) Housing needs and demand;
(b) The neighbourhoods planned urban built character of predominantly three-storey buildings.

Policies

Policy 1: Enable a variety of housing typologies with a mix of densities within the zone, including three-storey attached and detached dwellings, and low-rise apartments.

Policy 2: Apply the zone across the residential areas of the urban environment except in circumstances where a qualifying matter is relevant. Qualifying matters, including matters of significance such as historic heritage and the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

Policy 3: Encourage development to achieve attractive and safe streets and public open spaces including by:

(c) providing for passive surveillance

Policy 4: Require housing to be designed to meet the day to day needs of residents by requiring:
(a) access to daylight
(b) providing outlook
(c) useable and accessible outdoor living space
(d) landscaped areas.

Policy 5: Provide for the development of four or more residential units or developments which do not meet the building standards, while encouraging high-quality developments.

Additional point raised by committee

The Environment Committee requested further information on why the MDRS are to be included in the Act rather than in secondary legislation such as regulations, National Environmental Standards or a National Policy Statement under the RMA.

Response

It is the Government's intention that medium density housing is enabled in all existing residential zones, unless there is a good reason not to. Establishing the MDRS in legislation provides certainty to councils that this is the case. This supports efficient implementation.

3.2 Activity status, notification of consents

Explanation

New Schedule 3A of the Act sets out the MDRS. Part 1 of new Schedule 3A deals with general matters.

The MDRS enables up to three residential units per site, as a permitted activity, where a resource consent is not required, so long as the building standards are met.

Clause 3 provides that the construction of more than 3 units on a site within a relevant residential zone or up to 3 residential units that do not comply with the MDRS is a restricted discretionary activity.

Clause 4 excludes certain notification requirements in respect of the construction and use of certain dwellings within a relevant residential zone. Four or more units is provided for as a restricted discretionary activity, requiring resource consent. The application cannot be publicly notified or given limited notification to neighbours.

Development that proposes to breach any one of the building standards must be considered as a restricted discretionary activity. The application must not be publicly notified. A council may however determine that limited notification is required to assess the effects of the breaches.

Summary of submissions

- While there was general support for enabling three units per site, submitters typically proposed changes to the detail.
- Submitters, particularly councils, considered it inappropriate to allow single dwellings to enjoy the use of the more enabling building standards that up to three units would.

- Submitters had a range of views including:
    - questioning why three units was chosen
    - wanting more to be permitted, particularly to enable papakāinga developments
    - wanting no limit on the number of dwellings permitted, as other standards are intended to control the effects
    - wanting to enable non-residential activities in the MDRS to provide for functional urban areas such as small-scale retail and hospitality and greater use of home-based business
    - defining a minimum site size (e.g. one dwelling per 250m^2)
- Submitters raised the preclusions of notification of resource consents, some of whom wanted the ability to notify consents publicly to be kept such as Ngati Whanauga.
- Submitters requested that design manuals or guidance should be incorporated into plans to assess multi-unit developments. Design guidance manuals suggested include:
    - Kāinga Ora Design Standards
    - Crime Prevention Through Environmental Design (CPTED)
    - Urban Design Protocol
- Kāinga Ora noted its guideline was produced for a different purpose and would not be appropriate as a statutory control.
- Submitters requested establishing a controlled activity status in some circumstances (while retaining a permitted activity status for others) to provide for an urban design supporting report and assessment.
- The Retirement Association sought retirement housing be included via a new 'integrated residential development' activity, with a restricted discretionary activity. It also requested the Bill list matters of discretion.
- Ministry of Education sought schools zoning to be accommodated into the Bill. This is so school buildings can achieve greater heights to accommodate growth and avoid building over school grounds. *This matter is responded to in section 5.1 in this report, that schools with an existing school designation will be included.*

Response

It is government policy for this policy to enable up to three units on a site without the need for a resource consent. This was modelled on existing medium density zones across the country, including the Auckland Unitary Plan's Mixed Housing Urban Zone. We consider this number to be appropriate to enable more medium density across our major urban areas. Reducing this number could impact on the housing unlocked by this policy.

We do not consider it necessary to add a consent requirement to incorporate design assessments or manuals. This would be directly counter to Bill's approach of permitting development applications that meet the MDRS. We note that design guidance manuals are often pitched at a high level and are

targeted to master planned suburbs or developments including ten or more dwellings. The use of such guidance can also lead to uncertainty of interpretation and outcome for developers and home builders. More work by MfE and HUD should be done on this soon to help articulate what design guidance to follow, and what is best to support multi-unit developments.

We consider there is benefit in creating a national design guide for medium density housing to support implementation of this policy. We intend to develop such as guide, in consultation with tier 1 councils and industry, as part of our implementation of the Bill.

We note councils will still be able to draw on guidance when they are considering resource consent application where building standards are breached, or four or more dwellings are proposed. The manuals can be incorporated into the matters of discretion of a zone that incorporates the MDRS.

In respect to non-residential activities (mixed uses) we note many plans already provide for home-based business within parameters, often small-scale offices, or personal services. These can continue to remain.

Where a Designation for a school applies to land that is a relevant residential zone or adjoins a relevant residential zone. Works undertaken under that Designation may rely on the zone provisions of the relevant residential zone that incorporate the Building Standards in clauses 9 -13 where they are more permissive than controls included in the Designation

Regarding a request for an 'integrated residential development' activity, to provide for retirement homes as a restricted discretionary activity. We note that the approach would not result in resource consent process improvement or tangible improvements to development outcomes. developments of four or more buildings would be considered as a restricted discretionary activity. Retirement villages are a form of residential activity. Further, district plans can continue to specifically provide for retirement villages and their ancillary activities such as hospitals, if necessary. District plans can be more enabling than the MDRS.

Recommendation

We recommend no changes to the content of the Bill in relation to activity statuses for the number and size of dwellings or the preclusion of notification of resource consents. MfE and HUD will develop a national medium density design guide, in consultation with tier 1 Councils and industry, as part of implementing the Bill. This will encourage high-quality urban development, particularly four or more units considered via resource consent. We also recommend the inclusion of objectives and policies, see above section. This includes a policy linked to the consideration of resource consents of four or more units, and encouraging high-quality residential development.

3.3 Subdivision

Explanation

Clause 5 requires subdivision provisions (including rules and standards) to be consistent with the level of development permitted by the other clauses the MDRS. Clause 6 sets out additional restrictions on subdivision requirements.

The Bill provides for subdivision to enable the level of development anticipated by the MDRS. A subdivision consent can be imposed by the council – and this is typical given the technical nature of subdivision.

Developers can determine to subdivide the land they develop – there is no requirement to do so under current requirements or this Bill.

Summary of submissions

- Submitters wanted more clarity about what activity status a subdivision must have to meet the Bill's requirement for subdivision 'to be consistent with the level of development permitted'.
- Submitted expressed concern that a permitted activity status may be problematic given the technical nature of development. For example, Tasman District Council stated that 'the Bill is deficient on the interface between subdivision and site development, and it would not be feasible or appropriate to make the subdivision of MDRS land a permitted activity."
- Submitters identified a loophole that may allow councils to notify the application publicly or with limited notification where it is otherwise precluded for the land use component.
- Submitters, including Auckland and Christchurch City Councils, expressed concern the Bill would allow subdivision of three sites, which could later be built on with three units each, allowing for nine units without the need for a land use consent.

Response

The policy intent of the MDRS was that subdivision activity status should be consistent with the development enabled by the MDRS.

We recommend a controlled activity status for subdivision applications, which must be approved (unless a hazard or similar matter arises (see RMA section 106) subject to conditions of approval. The activity status clarification is akin to the way in which three or less or four or more dwellings has an activity status of permitted or restricted discretionary.

Controlled activity status gives certainty for developers at the beginning of the land use consent process or when dividing a complying residential development – as the presumption is that controlled activity consents are approved.

A permitted activity status is not appropriate, given it does not allow for a resource consent for subdivision, which is necessary as the process is technical and legal in nature and requires a series of checks to ensure development can be supported within separate titles.

A controlled activity allows council control over the process and to impose conditions to ensure the titles will be arranged in a way that is lawful and the necessary infrastructure is provided. A controlled activity status would be aligned with the permitted land use.

Council may still decline a subdivision application for a controlled activity in accordance with section 106 of the RMA. This allows for exceptional circumstances relating to natural hazards and access. It is unknown how often this clause is enacted. No change is proposed to section 106 by this Bill.

A controlled activity is appropriate for residential infill sites where the district plan zoning clearly envisages such development, and the subdivision is in accordance with the density provisions of the zone. In such cases, minimum site size, shape, and access width controls.

Recommendations

We propose to add a controlled activity status for the subdivision of residential units that meet the MDRS or for dwellings granted a restricted discretionary land use consent for four or more residential units.

We recommend amending the Bill so that any subdivision consent of residential units in accordance with the MDRS or an associated land use consent must not be publicly notified of given limited notification.

The Bill should be amended to clearly not enable the subdivision of vacant lots, unless the district plan stipulates this (determined by the council and subsequent decision-making).

3.4 Building standards

Explanation

Seven building standards were proposed to control the bulk and location of buildings and manage internal amenity of the site while providing for needed housing capacity.

Developments of 1, 2 or 3 residential units which meet the standards would be permitted activities.

The standards were based on the Mixed Housing Urban (MHU) zone rules from the Auckland Unitary Plan but made more enabling, particularly to allow three-storey buildings on most sites. For example, the height in relation to boundary standard in the MHU did not accommodate three-storey developments on typical sites, despite it being an objective of the zone.

Summary of submissions

- There was a range of views on whether the standards should be more enabling or not.
- Submitters raised the following points:
    - raising the height in relation to boundary to reduce impact of sunlight loss on neighbours
    - the potential for the MDRS to result in privacy and shading effects given the proximity of buildings to the boundary without controls of balconies and living rooms near adjacent private outdoor spaces
    - a package of changes to reduce or remove setbacks at the front and side and make it easier to move the bulk of buildings toward the front of the site, leaving the rear of the site undeveloped, and creating perimeter block developments
    - different standards for redevelopments and new developments.
- Several submitters including Wellington City Council approved of the Bill reducing resource consents as it frees up planners to consider more complex issues with greater potential impacts.

- Several submitters including Auckland Council requested the establish a working group on MDRS, including urban designers, planners.
- The table below summarises submissions next to each building standard.

Response

The table below provides a response to submissions against each standard. Changes are recommended to four of the seven standards – height in relation to boundary, front yard setback, outdoor living space and outlook space. Some new standards are recommended to address design and livability.

We note the MDRS is better placed to support perimeter block development compared to existing zones. However, we do not propose to go further in enabling perimeter block development as standards that allow this kind of development can restrict infill housing. This would be counter to the intent of the Bill.

We also consider it to be too complex to have two sets of development standards.

Table: Detailed analysis of proposed building standards

Standard	Summary of submissions	Response
Building height **11m** plus **1m** for pitched roof	Submission points included: • the 11m proposed height would fall outside the scope of various New Zealand Building Code acceptable solutions (Marc Lithgow) • a two-storey height limit should be proposed • most submissions did not suggest raising the height standard as concern about access to sun was a theme of most submissions.	We do not recommend changing the building height. The policy intent is to enable three storeys in practice, not just on paper. The Building Code supports the 11m height, as is the case with exiting developments.

Height in relation to boundary (HIRB)
 	
6m high at site boundary
+ **60°** recession plane
	Submission points included:
	• concern that the proposed HIRB prioritises the delivery of housing over the amenity of neighbourhoods and the amenity of adjacent houses
	• 2.5m plus 45°or something between that and the HIRB proposed (that or use 4m plus 60° (Upper Hutt City Council),
	• 5m plus 45 degrees in Omokoroa (Western Bay of Plenty District Council)
	• The AUP alternative HIRB was a common measure that was suggested, that is applied to the first 20m of the site back from the street boundary (Fletchers, AC, NWoO, Tauranga City Council) then reduce to a less enabling HIRB for the remainder of the site
	• height should be different on each boundary depending on orientation
	• AE Architects recommended the following for a national approach, roughly as follows:
	  ○ 6m+60**°** on northern boundary
	  ○ 3m+60**°** on eastern and western
	  ○ 3m+50**°** on southern boundaries
	• AE Architects recommend the following for a South Island option with lower degree measures, roughly as follows:
	  ○ 5m+60**°** on northern boundary
	  ○ 3m+50**°** on eastern and western
	  ○ 3m+45**°** on southern boundaries
	• 5m plus 45**°** on all boundaries (Graham McIndoe urban design).
		We agree with submitters there is a need to reduce the height in relation to boundary and recommend changing this to **5m** plus **60** degrees on all boundaries except road boundaries.
		
		Reducing the height in relation to boundary will reduce overshadowing on neighbouring sites and improve access to sun. We are confident the proposed standard will enable three storeys in practice.

Front setback
 	
2.5m front setback
	Submission points included:
	• General comments on the relationship of new buildings to the street. This included the front yard standard, and new standards proposed in the form of planting/landscaping, orientation and presence of windows, doors and pedestrian accessways. In general there was a general move to make sure the buildings respond better to the public interface, albeit with different approaches suggested
	• A number of supporters of the Bill (e.g. the Coalition for Homes) recommended reducing front setbacks so that buildings can be built closer to the front boundary. Some of these submitters also recommended reducing bulk in the rear of buildings to compensate.
	• Changes to the front yard control - requests generally ranged from 4m to 1m or 0m (no setback):
	  ○ larger front setbacks – to contain more vegetation including space for trees.
	  ○ for reducing front setbacks – to improve the interface of the building with the public realm, space for green space and tree canopy should be in the road berm. This would also allow greater development potential on site, or allow more opportunities to provide for perimeter block development raised by some submitters.
	• Support for a range of setbacks: 0m (Coalition for More Homes), 0m (Coalition for More Homes), and 4m (Auckland Council).
		We agree with submitters there is a need to reduce the front yard setback to 1.5m. This will enable landowners to bring buildings and their bulk and windows forward toward the street, enabling more flexible use of the site. The proposal in the Bill for 2.5m was too small to be useful and an inefficient use of space.
		
		Trees can be provided in the street berms.

Side setback **1m** side setbacks	Submission points included: • Few submissions suggested the side setback should be changed. 1m is common in existing plans. Concerns with the sides tended to be focused on height in relation to boundaries and the sunlight effects of this. • 0m within 20m of front boundary then 1m (Coalition for More Homes) • 1m on east and south (Selwyn District) • 2m in the north and west (Selwyn District)	We do not recommend changing the side setbacks. Individual developers can negotiate with their neighbours to reduce to side yard setback to 0m. With mutual agreement, this is a permitted activity under the RMA.

Rear setback **1m** rear setback	Submission points included: • suggestions for a greater rear yard setback, such as 4 or 6 meters. These tended to be in tandem with smaller front yard and side yard requirements, such as the submission from The Coalition for More Homes. • 6m set back from rear boundary of properties would allow for private green spaces for residents, and these would need to be shared spaces.	We do not recommend changing the rear setbacks. Having a rear boundary setback larger than 1m has been typical for infill subdivisions since the 1970s as this was the de facto outdoor living space. However, it will have little benefit for existing sites that have been subdivided. The result would be potentially two or more rear yard setbacks.
Building coverage **50%** coverage	Submission points included: • between 45 – 55% coverage – many councils suggested this • between 40% and 60% coverage – many developers and individuals suggested this depending on views on development compared to considerations for amenity.	We do not recommend changing the building coverage. We are confident we have found the best balance between submitter's proposals. Building coverage of 50% is consistent with existing medium density residential zones. Increasing the standard would increase the bulk of buildings, whereas a reduction would reduce the housing yield on most sites.
Impervious area **60%** area	Submission points included: • it is not clear if hydrological neutrality is covered or not. Some suggested this should be dealt with via the district-wide standards to managing downstream effects to stormwater infrastructure and or streams. Hydrological neutrality is different in different areas due to a range of local factors such as rain, the type of receiving environment (streams, harbour, pipe network), size and steepness of drainage catchment etc.	We recommend deleting this standard from the MDRS and dealt with as a district-wide matter to control stormwater. Councils can then decide on the area. Impervious coverage to achieve hydrological neutrality can be included as a district-wide standard, see section 2.3 - scope of the ISPP. Council may impose other rules and engineering standards to achieve this such as via stormwater detention tanks which reduce peak flows.
Outdoor living space (per unit) **15m^2** ground floor **8m^2** upper floors	Submission points included: • outdoor living space should be the same or larger, 20m^2 for ground floor (Tauranga City, Fletchers) • keeping upper levels at 8m^2 or increase to 10m^2 (McIndoe Urban) • spaces should be afforded a minimum of two hours direct sunlight at winter solstice • that clarity is needed in relation to how it applies to above ground units. Currently only requires space for ground level units. (McIndoe Urban)	We agree with submitters there is a need to increase outdoor living for the ground floor unit from 15m^2 to 20m^2. We agree with submitters that developers should be able to choose if outdoor space can be grouped, and used communally, rather than provided per unit. We do not consider it necessary to stipulate the orientation of outdoor spaces. Sometimes it is not possible to orient all spaces to northerly directions. This is especially the case when you have a house with an existing south facing back yard and infill housing

	• there is a lack of guidance on the location and orientation of outdoor living spaces – which could lead to south facing outdoor spaces with a reduced ability to incorporate passive solar design and the ability to dry clothes outdoors with resulting increased energy costs for the occupant and potential implications for health and well-being (Beca Consulting) • a requirement be added that the outdoor space be accessed from the main living area.	is being put in the back yard. A consent should not be required to keep the existing house's outdoor area facing south.
Outlook space (per unit) **3m x 3m** for principal living room window **1m x 1m** outlook for one window in each other habitable room	Submission points included: • outlook space is a novel approach in plans, used in only a few in the country however few submitters requested it • increase the area of outlook space from principal window units, and also to clarify that all other windows in habitable room should have an outlook space • the principal window to have an outlook space of 6x4m (Ngati Whatua o Orakei), 5x4m (Auckland Council) and 4x4 (Tauranga City) • clarification is sought on what outlook space can be over (for example, driveways or footpaths, or under overhangs or balconies), to clearly define what can and cannot be included in an outlook space, and to avoid introducing unnecessary complexity to the design of apartment buildings • that the MDRS does not define the height of the outlook space • that one outlook space above another in a stacked vertical configuration is allowed.	We agree with submitters there is a need to increase the outlook space so that it is: • 4m x 4m outlook space for principal living room window, and 1m x 1m for ALL other windows in habitable rooms. We also recommend clarifying that one outlook space can be: • above or below another outlook space in a stacked vertical configuration • under buildings, such as balconies • over driveways, footpaths within the site.

3.5 Additional standards proposed by submitters

Summary of submissions

- Submitters proposed additional building standards, particularly to manage design features they considered developers and homeowners would be unlikely to provide without direction from council. These included standards relating to:
    - managing building form and appearance
    - protecting of trees
    - landscaping
    - site functioning
    - accessibility
    - rainwater collection, and
    - connection to water infrastructure with adequate capacity.

Response

While the MDRS are designed to be truly enabling of medium density development, we recognise the need to ensure they result in livable homes. We agree with submitters there is a need to add new standards to ensure livability.

We have carefully considered how to design these new standards to ensure they do not unnecessarily restrict development, place additional costs on homeowners and homebuyers, and limit the impact of the policy. We have also looked at ways to manage subjectivity and compliance.

We note that accessibility within buildings is predominantly managed by the Building Act 2004 and the Building Code. As it is not directly managed by RMA plans, any changes in this regard are outside the scope of this Bill.

Recommendations

We recommend adding three new standards to ensure livability and improve the aesthetics of housing enabled by this policy.

The first is a landscaping requirement so a minimum of 20% of a site is set aside planting or grass, and the canopy of trees regardless of the ground treatment below them. This will ensure the need for green space is considered when designing and building these homes. It will also incentivise developers and others to maintain existing trees, particularly with the greater site flexibility provided by the MDRS. The monitoring of the landscaped area may occur only once, at or within 12 months of construction completion. This is to ensure the ongoing monitoring requirements for councils are not too burdensome and limit the risk of risk adversarial litigation.

The second is a new standard that requires a minimum of 20% of the front façade to be glazed. This can be in the form of windows, doors, or sliders. This is to maintain or improve the passive surveillance of streets and improve the visual appearance of buildings from the street. The windows will avoid blank walls facing the street, or walls with only few windows.

The third is a new standard allowing developers to choose if outdoor space can be grouped, and used communally, rather than provided per unit. This recommendation will allow more flexibility. Where taken up, it will address livability and design concerns such as townhouses only having a very small outdoor space.

We recommend clarifying the drafting of the setbacks standards to make it clear existing setbacks for water bodies and infrastructure can be kept. In some cases, these existing setbacks must be kept (e.g. those relating to Transpower). This will address submitters' requests for additional standards for water bodies and infrastructure.

We do not recommend adding new standards covering:

- street interface (balconies to street, front door visibility, building orientation, pedestrian footpath, cladding, garage recession)
- maximum building length
- minimum street frontage
- minimum density
- maximum density
- minimum dwelling size
- service area
- energy efficiency
- setbacks in relation to Māori purpose zone
- setbacks and height in relation to boundary relating to public open space
- privacy setback of some windows
- rainwater tanks
- rubbish bins
- car parking consultation
- universal design and access.

The table below sets out the rationale.

Additional standards sought	**Submissions**	**Rationale**
Street interface	A number of standards can fall under the street interface, these are • **Balconies to street** (TCC) – same as glazing, but requiring a deck / patio to face the street	• **Balconies to street** – this can reduce privacy, and be underutilised by residents so reduces real benefits, change may only be cosmetic. • **Front door visible** – may detrimentally affect the development if it were

	• **Front door visible to street -** not tucked out of sight, this improves legibility, and improves interaction between street and houses. • **Buildings orient to the street** – perimeter block - a system where all windows either face the street or the rear yard, rather toward the sides of the site and toward directly adjoining sites • **Pedestrian footpath** – dedicated pedestrian right of way, not shared with cars, for the front units (TCC), and on site with multi units where driveways are 12m or more in length • **Cladding –** More than one type of cladding (TCC, HCC) to help break up the visual appearance of a long or large building. • **Garages recessed** from main wall facing the street should, suggestion and as required in some plans these be set back from the front façade by 0.5m (or more). To reduce the visual dominance of the garage door in relation to the rest of the building.	better located to face another direction, such as being closer to the interior of the site. Less necessary with the requirement of windows to face the street. • **Buildings orient to street** – the MDRS standards, and our recommended changes, encourage this type of design, while retaining flexibility to work effectively on a wide range of sites. • **Pedestrian footpath** – engineering standards will best determine where or when pedestrian ways need to be separated from cars on driveways for safety reasons. • **Cladding** – very subjective, and when forced can detract from the visual appearance of the building by having mismatched cladding (brick, weatherboard, stone, plaster etc) • **Garages recessed** – provides little visual improvement.
Maximum building length	Auckland Council and NZIA sought maximum building lengths to avoid long bulky buildings (often referred to as “sausage flats”).	This would be difficult to control, and limit development options on site. This is not a rule currently in the Auckland Unitary Plan.
Minimum street frontage	Only sites with a certain frontage width or larger would be able to use the greater development standards (NZIA)	This would prevent many sites from accommodating 3 units and would go against the policy intent.
Minimum density	Some councils wanted to still have the power to impose minimum density citing a minimum of 40060 dwellings per hectare (Christchurch and Tauranga City Councils)	The Bill does not limit greenfield development minimum density requirements as vacant lot subdivision of new urban areas is not provided by the Bill. Councils may impose density

		outcomes as a condition of subdivision consent.
Maximum density	Limit the number of houses.	The building standards and the size of land available will limit density.
Minimum dwelling size	Desire from some submitters for minimum unit sizes, stipulated differently for houses by bedroom-type.	The size of units/apartments is a matter of consumer choice.
Service area	A control to ensure space for services, such as $10m^2$ per unit for common storage and bins (Selwyn District Council)	These matters can be considered in resource consent applications for four or more buildings.
Energy efficiency	Buildings must achieve a Green Star Building (5 or higher) or Home Star (7 or higher) certification Passive House certification, or equivalent third party verified certification for low-emission, energy efficient housing; or demonstrate via another means. (NZ Green Building Council)	This matter is outside of the scope of the Bill. The Ministry of Business, Innovation and Employment is currently working on the Building Code to improve the thermal performance of buildings.
Setbacks in relation to Māori Purpose Zone	To avoid overlooking of cultural activities where in relation to a marae (TCC)	These setbacks could be justified under Qualifying Matter, RMA section 6(e), council to propose and consult on with iwi and the public.
Setbacks / HIRB in relation to public open space	To avoid shading and overlooking of parks.	Parks are not sensitive to overlooking and would likely be improved by passive surveillance. Sunlight impacts would be marginal for most parks given their size. Small parks are unlikely to be wholly shaded even in winter.
Setbacks for water bodies	In relation to lakes, streams, rivers, wetlands, the sea, to protect the physical biophysical elements, hydrology, and the natural character	Existing setbacks from waterbodies can be kept as intended.
Setbacks for infrastructure	Including, railways, electricity transmission lines, fuel lines, fuel storage, high pressure gas lines – to avoid reverse sensitivity and the increased risk of hazards to life	Existing setbacks can and in some cases, like Transpower, must be kept as intended.
Privacy setback of some windows	Submitters raise points about reducing overlooking. They suggested privacy can be improved by setting windows above the floor, which reduces casual overlooking. This could be a small height, 750mm to reduce overlooking, or 1.5m high to reduce all overlooking.	The outlook space provides for privacy because the main living room window must be setback at least 3m from a boundary in any case regardless of sill height.

	Another suggestion was requiring that any *living room* window with a sill height less than 1.5m off the floor (define carefully) or deck on the 1st floor or high is set off internal boundaries a minimum of 3m. Another suggestion was an additional clause to require all other windows above ground floor to have either a sill height under 1.8m or a setback that is materially greater than 1m, and also require balconies to have a setback that is materially greater than 1m.	It will be possible to have a sill height of at least 750mm to reduce the overlooking of neighbours, but still provide sufficient windows to habitable rooms.
Setbacks for balconies	There was a proposal for 3 storey balconies set 1m off internal boundaries in a suburban context (or 2m separation between facing townhouses).	Regardless of the distance upper-level balconies are from neighbouring sites, overlooking is difficult to avoid. Solid/non-visually permeable balustrades can be used to reduce overlooking, particularly those sitting down on the deck.
Rainwater tanks	Allow 2000L rainwater tanks	Councils can choose to make their plans more enabling than the MDRS. Best addressed under the scope of the ISPP
Rubbish and recycling	Submitters requested a standard for rubbish bins.	Storage of bins becomes an issue for larger multi-unit developments. Councils may consider and manage bin requirements for four or more dwellings via a resource consent.
Car parking consultation	Where car parking is provided, the standards should require this to be consolidated, to reduce the amount of open space wasted on driveways and manoeuvring space.	There is now sufficient flexibility regarding car parking given to developers. They may choose to not provide car parking to respond to consumer preferences. They may also choose to consolidate any car parking, and this will depend on the nature of the development type or site – many developers do this for apartment developments.
Universal design / access	To require some or all units to be accessible to a range of people including people with disabilities.	Opportunities to improve the implementation of accessible design are being investigated by the Ministry of Business, Innovation and Employment for the building code upcoming changes.

Adequacy to connect to water infrastructure with adequate capacity	Auckland Council and Wellington Water suggested a new standard is added to ensure dwellings can connect to water infrastructure with adequate capacity.	Officials are doing further work to determine if anything else is required to manage infrastructure impacts.

3.6. Qualifying matters

Clause 7 New section 77G provides qualifying matters for the MDRS

Explanation

The Bill recognises that not all areas are appropriate for intensification and gives councils the ability to make zoning less permissive than the MDRS where a "qualifying matter" applies. This approach has been adopted from the NPS-UD.

General comments

Summary of submissions

- Submitters generally supported including the qualifying matters and saw them as critical to protecting matters of national importance.
- Submitters requested that councils should be required to restrict development where a qualifying matter is identified.
- Submitters were unclear about how the qualifying matter policies applied and were concerned that they would not provide adequate protection for matters of national importance.
- Submitters proposed removing the ability to use all qualifying matters in relation to the MDRS. Reasons for this view were to provide for greater intensification and to simplify the application of the MDRS. One submitter suggested requiring design guides to be used instead of qualifying matters to mitigate the effects of the intensification in those locations.
- One submitter requested that instead of the presumption being that the MDRS apply and then exemptions be identified, that councils start from opposite presumption and instead identify areas where the MDRS would be appropriate.

Response

The retention of the qualifying matters enables councils to limit development in particular areas to protect for example matters of national importance and nationally significant infrastructure

Not having a mechanism to modify the intensification requirements in these areas to provide for qualifying matters would be contrary to the purpose and principles of the RMA and benefits would be

outweighed by costs, not contribute to meeting the objectives of the NPS-UD and not create well-functioning urban environment

Councils may not need to restrict heights and densities once a qualifying matter has been identified. There may be a range of ways to manage the qualifying matter and these can be tested through the ISPP.

Technical recommendation

Officials consider that the Bill should provide greater clarity that qualifying matters can be used to modify the MDRS and policy 3 in both residential and non-residential zones.

Heritage and character as qualifying matters

Summary of submissions

- Submitters, such as the Eden Epsom Residential Protection Society Inc and Devonport Heritage 2017 Inc, requested that special character be protected and said that the site-by-site analysis to justify character protection was inappropriate. The rationale provided by submitters for retaining special character protection included protecting amenity values and the economic benefits associated with attracting visitors to those areas.
- Other submitters, such as A City for People, disagreed with this view and said that the use of special character as a qualifying matter needed to have a higher threshold to ensure the Bill focused on enabling a range of housing in high-demand and walkable areas.
- A small number of individual submitters requested the Bill preclude special character protection completely due to the limiting effect it had on the provision of housing supply.
- An individual submitter noted that historic heritage that met the criteria of section 6 of the RMA but was not formally listed should also be recognised as worth protecting.
- Submitters expressed concern the qualifying matters framework was insufficient for protecting cultural sites, including because councils favour early twentieth century houses over archaeological sites.

Response

This Bill does not alter existing heritage protections. Historic heritage is a matter of national importance under section 6 of the RMA, so falls under qualifying matter 77G(a) and 77L(a). Historic heritage including archaeological sites does not need to be listed in the district plan prior to be included in the IPI provided there is sufficient evidence for its inclusion in the section 32 report.

The Bill does not alter protections for archaeological sites, but it may make it more difficult to alert developers to the need for an archaeological authority if a development is permitted. However, resource consents for earthworks may still be required and this would be appropriate in areas where there are likely to be unidentified archaeological sites.

The Bill provides for retention of special character that does not meet the definition of historical heritage where this can be justified. We do not recommend any changes to provide additional

protection for special character. The benefits of increasing development capacity in high demand areas closes to services and amenity outweighs the benefits of increasing protection for special character. We do not recommend removing the ability to protect character areas entirely.

Ability to take into account the effects of climate change

Summary of submissions

Submitters raised concerns that councils may not be able to restrict development in areas prone to the impacts of climate change.

Response

Councils can exempt areas where there are significant risks of natural hazards. They will need to take into account the likely impacts climate change when doing so. There is a rich and growing evidence base to support this.

Appropriate provision for infrastructure

Summary of submissions

- Submitters including Wellington City Council, Transpower, the New Zealand Airports Association and the Board of Airline Representatives NZ Inc requested greater clarify around the application of the qualifying matters to nationally significant infrastructure. These submitters were especially concerned about reverse sensitivity effects where, for example, more stringent noise limits to protect the health and safety of those living in nearby residential areas impact the ability of airports to operate at certain times of the day. Wellington City Council requested that noise overlays, associated with activities such as the operation of the airport, should be added as an additional qualifying matter.

- Submitters proposed infrastructure being added as a qualifying matter, including that councils are able to exclude areas from the MDRS that do not have existing or planned infrastructure capacity to support intensive development

Response

The current qualifying matters enable councils to modify the MDRS or intensification policies to accommodate matters required for the purpose of ensuring the safe and efficient operation of nationally significant infrastructure and to give effect to national policy statements. The National Policy Statement on Electricity Transmission includes direction to assisting in managing activities to avoid reverse sensitivity effects on the electricity transmission network.

Officials consider the qualifying matters with their provision for nationally significant infrastructure, national policy statements and the ability to accommodate other matters where these are justified are sufficient. Overlays for matter such as noise control should not have to be relitigated and should remain intact either though the qualifying matters or by making it clear that the MDRS does not override these requirements.

We do not recommend adding a new qualifying matter related to infrastructure pressures. Restricting development based on a qualifying matter may permanently restrict areas form development in council

plans. This is not appropriate for managing infrastructure pressures, as new infrastructure investment may address identified issues, or other ways of managing pressures could be developed.

Instead, we consider that our recommended changes to the scope of the ISPP enabling councils to consider district wide matters will provide councils with options to address infrastructure concerns. Councils often manage district wide matters relating to technical infrastructure matters through chapters in their plans that have district wide effect. The ability to adjust these measures through the ISPP will both allow councils to manage infrastructure issues and support MDRS and NPS-UD implementation. We will also undertake further work to consider whether further measures are required to manage infrastructure pressures.

Evidence required to justify qualifying matters

Explanation

New sections 77G, 77H, 77I, 77M and 77N reference information requirements for qualifying matters, and require an evaluation report under RMA section 32 be produced that detail the evidence supporting the restriction of heights and densities.

Summary of submissions

- Submitters, particularly councils, expressed concern about the amount of work and analysis that will be required by August 2022.
- Submitters queried information requirements relating to qualifying matters. These submitters noted that if information and provisions relating to qualifying matters have already been through a plan making process, a lot of time and resource has already been invested in these protections (specific examples of this include heritage protection, infrastructure corridors for electricity transmission, rail and airport noise)
- Submitters expressed concern that significant amounts of evidence are needed for qualifying matters relating to “other matters”, which will be difficult in the timeframes.

Response

It is important that restrictions of heights and densities can be justified. These requirements support councils to identify appropriate locations for restrictions and the IHPs to evaluate these claims.

However, it is the intent that if evidence and provisions relating to a qualifying matters (a) to (g) have already been tested through a public plan making process, councils and decision makers in the ISPP should be able to rely on this and not have to undertake substantial re-evaluation of qualifying matters (a) to (g).

This is intended to save councils, Iwi, and stakeholders time and resource, and reduces the likelihood of areas with good reasons for restrictions being relitigated through the ISPP. Councils and decision makers (including the IHP) will need to focus their evaluations on appropriate heights and densities for these qualifying matters.

Evidence requirements for “other matters” will still need to be tested through the ISPP as this category will likely this is a category that has less specificity. Restrictions in these areas will be based on matters that are not covered by section 6 of the RMA, or one of the other specified matters and evidence

requirements. Evidential requirements are important to ensure transparent decision-making with regard to these areas. However, councils will be able to refer to existing evidence in the evaluation reports.

We will do further work to determine whether there are ways to simplify the way councils determine qualifying matters.

Recommendation

We recommended that a clause is added to the Bill to clarify that if a qualifying matter has already been through a public plan making process, it does not need to be relitigated to the same extent through the ISPP. Councils will still need to do analysis as to appropriate heights and densities and refer back to evidence of qualifying matters. This clause would not apply to qualifying matters relating to "other matters".

Additional qualifying matters

Summary of submissions

A number of submitters including the Future Proof councils, the Waikato River Authority, Bay of Plenty Regional Council, Wellington City Council, Aurecon New Zealand Limited and individuals proposed new qualifying matters:

- to give effect to Te Ture Whaimana – the Vision and Strategy for the Waikato River
- to give effect to regional abstraction and discharge consents
- infrastructure constraints, including areas not serviced by activity and public transport
- to maintenance and enhance indigenous biodiversity
- natural hazards
- noise overlays.

These are addressed in the table below.

Additional qualifying matter proposed	Response
To give effect to Te Ture Whaimana – the Vision and Strategy for the Waikato River	Officials agree that upholding the Waikato River Settlement requires the explicit identification of Te Ture Whaimana – the Vision and Strategy for the Waikato River as a qualifying matter. Modifications to accommodate Te Ture Whaimana, which has the objective to restore and protect the health and wellbeing of the Waikato River, may mean less development is enabled that was anticipated by the Bill. We are confirming whether other legislation, other national direction and iwi participation legislation needs to be included in the Bill and will add this as appropriate. We recommend including Te Ture Whaimana as a qualifying matter.

To give effect to regional abstraction and discharge consents	No change necessary. Councils will need to upgrade infrastructure to comply with consents.
Infrastructure constraints, including areas not serviced by activity and public transport	No change necessary. A qualifying matter would give too much discretion for councils to be able to limit areas because of perceived infrastructure concerns. The likely result would be that councils would make development 'restricted discretionary' (i.e. activities would need resource consent). Officials are also undertaking further work to see if any other support for councils is required.
Maintain and enhance indigenous biodiversity	No change necessary. Councils that have not identified significant natural areas in their plans could identify these areas in the intensification planning instrument as a section 6 matter and note in their section 32 that these will be listed in their plan at a later date.

Technical changes

We have identified several technical changes that are necessary to ensure the qualifying matters framework functions as intended. These are included in the clause-by-clause recommendations table in chapter 7.

3.7 Immediate legal effect

CLAUSE 9 When rules in proposed plans have legal effect
CLAUSE 10 When rules in proposed plans must be treated as operative

Explanation

Clause 9 amends the RMA so that rules in relevant residential zones have immediate legal effect on notification of the IPI. Exclusions to this are where the IPI proposes a more permissive rule, is a qualifying matter or is a new residential zone.

Impact on qualifying matters

Summary of submissions

- The Resource Management Law Association (RMLA) and Heritage New Zealand were concerned about the impact immediate legal effect on qualifying matters. Both were concerned landowners could begin development upon notification of the IPI, before submissions or hearings could be considered, especially on qualifying matters. RMLA questioned whether construction undertaken during this period would have to be demolished if a qualifying mater was later determined to exist.

- Heritage NZ Pouhere Taonga (HNZPT) considers that many territorial authorities will not have the expertise or resources to determine the location of qualifying areas. They therefore oppose immediate legal effect; requesting the exclusion of qualifying matter areas from this presumption and proposing a "permissive area" or a "qualifying matter area" whereby an exclusion applies to any qualifying matter areas identified during pre-notification of section 86B(6)) or new residential zone consultation.
- HNZPT recommended:
    - proposed plan changes to give effect to the MDRS should not have immediate legal effect where any qualifying matter has been identified in an area through pre-notification consultation until an investigation has been undertaken, submitters have had the opportunity to comment, and the plan change becomes operative;
    - propose a clause be inserted requiring territorial authorities to develop guides for development in MRDS areas within or adjacent to listed and scheduled historic areas and heritage character areas.

Response:

We recognise there is some risk of development occurring where a qualifying matter is missed at notification of the IPI but later identified through the ISPP. We consider this risk, and the impacts it may result in, to be relatively low. Councils are likely to take a precautionary approach when identifying qualifying matters for the ISPP process and there will also be pre-notification consultation and engagement, which will help to identify these.

Building that is legally completed post-notification, but later determined to be in an area where qualifying matters apply would have existing use rights and wouldn't need to be demolished.

We do not agree that a clause is needed to develop guides for listed and scheduled historic areas and heritage character areas, but MfE and HUD will discuss implementation options with the Ministry of Culture and Heritage.

We recommend a change to which parts of plans have immediate legal effect – delaying legal effect not just where a council proposes enabling a current higher height, but also where they recommend including other more enabling versions of the standards (e.g. greater site coverage), including to give effect to the NPS-UD. (Qualifying matter areas, and rezoned land would continue to not have immediate legal effect).

This will ensure standards and rules not included in the MDRS (and therefore which have not been through a public process) do not take immediate legal effect before they have been consulted on publicly.

Impact on patterns of development

Summary of submissions

- Upper Hutt City Council was concerned about the sequencing of development that 'immediate legal effect' would enable. It was considered that applying the MDRS across all residential areas would sacrifice the strategic benefits to be gained by targeting density around nodes and transport. Similarly, Daniel Shao and other submitters perceived the ease of development under MDRS relative to the more complicated, slower process for NPS-UD intensification policies would

incentivise developers to densify areas away from town centres and transport corridors, with negative unintended consequences on NPS-UD intensification policies.

- Hugh Green Limited was concerned that where existing operative provisions are more restrictive than the MDRS, development will be unjustifiably restricted within permissive areas (ie, where maximum building height exceeds 11 m) until decisions on the IPI. They recommended councils be required to deem MDRS to be operative in place of more restrictive provisions.
- Submitters raised that councils could marginally amend the MDRS to avoid the standards having immediate legal effect.

Response

- Areas that are implementing the intensification policies in the NPS-UD will have provisions that are more enabling than the MDRS. These areas will be excluded from having immediate legal effect, therefore we do not think that there is a risk that these areas will be underdeveloped as a result of this policy.
- We consider the risk of councils amending standards to avoid immediate legal effect to be low. Proposed standards will be tested through the ISPP and the notified standard would need to be accompanied by a section 32 analysis.

Consideration of MDRS between introduction of Bill and notification

Summary of submission

- The Wellington City Council requested the Government make a statement/provide guidance on how local authorities are to consider the MDRS from the time the Bill was introduced in late 2021, until their inclusion in district plans. While the Bill states the MDRS have no effect until incorporated into the relevant proposed plan (clause 77J(5)), developers will approach local authorities to undertake development to this scale as permitted, knowing standards will apply in the near future and have legal effect from notification.

Response

The MDRS will not have any legal standing until the IPI (plan changes) are notified.

Clarifying which clauses legal effect applies to

Summary of submissions

- Submitters considered that the Bill drafting for immediate legal effect was unclear
- Selwyn District Council sought that financial contributions policies have immediate legal effect for notification, to avoid potential gaps in infrastructure funding

Response

The policy intent for immediate legal effect is that rules relating to the MDRS have immediate legal effect from notification. This is because these provisions have been tested through a public select committee process, and the specific rules/standards will not be changed through the ISPP. Additionally, this is designed to stimulate construction of medium density housing to address the housing crisis as soon as possible.

We acknowledge that the Bill is ambiguous as to which provisions immediate legal effect applies to, so the drafting needs to be clearer. We recommend that only the MDRS has immediate legal effect, other provisions relating to the NPS-UD intensification polices, subdivision, qualifying matters, financial contributions and other complementary and consequential changes need to be tested through the ISPP.

Recommendation

We recommend that the Bill clarify that immediate legal effect applies only to:

- MDRS for: height, height in relation to boundary, setbacks, building coverage, outdoor living space, outlook space, windows to street, landscaped area.
- MDRS objectives and policies specified in the Bill.

Chapter 4 Tier 2 Councils

4.1 Ability to require tier 2 councils to implement the ISPP

CLAUSE 1 OF SCHEDULE 5 Purpose of expert consenting panels

Explanation

The Bill enables the Minister for the Environment, in consultation with the Minister of Housing, to direct tier 2 councils (listed in Table 3) to use the ISPP to implement the MDRS and relevant NPS-UD intensification policies via an Order in Council if there is evidence of acute housing need.

In making this assessment the Minister:

- must have regard to the median multiple in that district (that is, the median house price divided by the median gross annual household income)
- may have regard to whether any other information indicates that there is an acute housing need in the district.

Summary of submissions

- The following tier 2 councils submitted on the Bill: Rotorua Lakes Council, Whangārei District Council, Nelson City Council, Tasman District Council, New Plymouth District Council, Queenstown Lakes District Council, Dunedin City Council, Palmerston North City Council. Gisborne District and Taupō District Councils, both tier 3 councils, also submitted.
- Rotorua Lakes Council resolved unanimously to request inclusion of the Rotorua urban area in the provisions of the Bill because of the acute housing needs on the district. It has also sought clarification on the possibility to exclude several cultural historical Te Arawa villages within its urban area.
- Te Arawa Lakes Trust and Te Tatau o Te Arawa requested they have a role alongside Government and the council in determining if Rotorua is experiencing acute housing need.
- Individual submitters who commented on the tier 2 clauses were primarily concerned with the state of the housing crisis in tier 2 areas and wanted to see more enabling planning regulation to give tier 2 councils the opportunity to enable density that will lead to improved housing supply/affordability outcomes.
- A smaller number of submitters considered tier 2s should have the opportunity to “opt in” to adopting the MDRS as opposed to the decision sitting with the Minister to direct them, potentially against their wishes.
- Submitters expressed concern the Minister for the Environment would have the power to direct tier 2 councils to adopt the MDRS without consulting relevant stakeholders, such as the councils.
- Submitters expressed concern that if councils are allowed to pick which areas are enabled for densification under the MDRS it could generate land-banking/speculation activities, increasing prices and undermining the policy outcomes for realising intensification.

- Tier 2 and 3 council submissions, excluding Rotorua Lakes Council and Taupō District Council, requested the Bill be amended to include additional standards for various elements of urban design outcomes.
- Taupō District Council's submission solely sought clarification that the district will not be affected by the Bill, and that the Environment Committee did not seek to include the council within the Bill.
- Queenstown Lakes District Council requested the scope of the ISPP be broadened to include tier 2 district plan changes for policy 5 of the NPS-UD without also needing to adopt the MDRS.
- Submitters, including councils, suggested that tier 3 areas should not be included.
- Submitters considered that councils that should be included be listed in the legislation rather than enabling the Minister for the Environment, in consultation with the Minister of Housing, to add tier 2 councils through an Order in Council process.
- Queenstown Lakes District Council, New Plymouth District Council and Tasman District Council requested that the power for the Minister for the Environment to direct tier 2 councils to adopt the MDRS be removed from the Bill. Tasman District Council requested that if this is not removed, the provision should be amended to prevent the Minister from exercising this power where the relevant territorial authority does not agree to it.
- Nelson City Council supports the ability for the Minister for the Environment to include tier 2 councils via the OIC making power.
- Submitters wanted the proposals in the Bill to be extended to all areas of New Zealand that are experiencing a housing crisis, including tier 3 councils. Gisborne District Council requested that this power be expanded to enable the Minister to also direct tier 3 councils.

Response

It is government policy for the Minister for the Environment to have the ability to direct tier 2 councils to apply the MDRS where acute housing need is identified. Having this power in the Bill provides flexibility to address housing pressures in these areas. We do not consider it necessary to require all tier 2 councils to apply the MDRS as the drivers of housing need in these areas are different, and other responses might be appropriate.

We note Rotorua Lakes Council is seeking direction from the Minister for the Environment to implement the MDRS and ISPP and we will continue to work closely with the council and iwi to progress its request. We consider that the council would be able to address the issues it raises regarding cultural areas under the qualifying matters framework.

We consider it would be beneficial for the Minister of Māori Crown Relations to be consulted by the Minister for the Environment on any decision to direct a tier 2 council, alongside the Minister of Housing. This reflects a desire from iwi submitters for greater prominence of the Māori Crown relationship.

We recommend allowing any other territorial authority to ask the Minister for the Environment to adopt the MDRS via the ISPP.

Determining acute housing need

Summary of submissions

- Submitters, including Tasman District Council, Gisborne District Council and Whangārei District Council, raised concerns around the lack of clarity in the Bill regarding the term 'acute housing need' and sought clarity about how the Minister for the Environment would determine this.
- Dunedin City Council considered the 'median multiple' to be an inappropriate indicator for the Minister to have regard to when determining if a tier 2 council should be directed to adopt the MDRS. It recommended that this be amended to in reference other indicators, including information within the Housing and Business Development Capacity Assessments councils produce under the NPS-UD.

Response

Identifying acute housing need will require a broad and holistic assessment of a place's housing market and the impacts this has on the local population. Acute housing need could manifest differently between places and would be identified with different sets of information. It would be difficult to capture these as criteria in this Bill, and could inadvertently include or exclude a council where the MDRS could be beneficial. We consider the current criteria to be appropriate and do not recommend any changes.

While the median multiple is not a perfect indicator on its own, it is useful to help identify how affordable or unaffordable a given housing market is. When viewed alongside other information, this helps present a more complete picture of acute housing need in a district. The Minister for the Environment will not consider the median multiple alone when determining if a district has acute housing need, and therefore no changes are recommended to this.

Recommendation

Section 80E(5)(a) requires the Minister for the Environment to have regard to the median multiple in a territorial authority's district when determine whether that district is experiencing an acute housing need. This clause requires the median multiple must be calculated according to publicly available data.

We recommend that 'calculated according to publicly available' be removed from the Bill. For the median multiple to be useful, the most up to date data as possible must be used. However, publicly available median household income data at the territorial authority level is not published regularly and the most recent public data officials could identify is several years out of date.

Chapter 5 Other matters

5.1 Schools

Summary of submissions

- Submitters highlighted that the Bill is only applicable to residential zones and residential units. They consider this will mean that community facilities and services will have increased demand because of the intensification enabled in the Bill, but they will not be easily able to respond to the demand.

Response

The IPI may also give effect to the "other intensification policies" (i.e. policies 3, 4 or 5 of the NPS-UD) relating to other non-residential zones (refer Sections 77K to 77N of the Bill). While this will provide some policy support for non-residential activities, it does not address "community services" (which includes education facilities and community facilities) subject to existing designations.

Many of the Minister of Education's school designations include controls relating to urban form (height, height in relation to boundary, setbacks). In some cases, these controls reference and apply the underlying zone. In many other cases, particularly in Auckland, the designation prescribes set controls (e.g. a setback of 3 metres or height limit of 10 metres). These controls will not be appropriate when the surrounding residential zone controls allow for further intensification in accordance with the Bill.

MfE and HUD have worked with the Ministry of Education to develop minor changes to the Bill that will allow the Minister of Education to better respond to the anticipated residential growth on school sites. These changes will enable schools to add additional storeys where they want to expand, rather than removing more of their green spaces for classrooms. Most schools are in land zoned residential so this may be more of a clarification than anything else. We consider it appropriate for schools to have an opportunity to keep up with increases of students from intensification by being able to use their sites in a smarter way.

Recommendation

We recommend including a provision in the Bill that provides for Designations for schools to use the underlying zone if more permissive.

Where a Designation for a school applies to land that is a relevant residential zone or adjoins a relevant residential zone. Works undertaken under that Designation may rely on the zone provisions of the relevant residential zone that incorporate the Building Standards in Part 2 of Schedule 3A where they are more permissive than controls included in the Designation.

5.2 Amendments to the National Policy on Urban Development

Explanation

The Bill provides for the following:

- make changes to policy 3(d) of the NPS-UD
- remove current or potential inconsistencies between the NPS-UD and this Bill once enacted
- clarify the relationship between the NPS-UD and this Bill
- amend the NPS-UD definition of 'planning decision'.

Changes to 3(d)

Summary of submissions

- There were a small number of submissions on the revisions proposed in the Bill to policy 3(d), with a split between submissions supporting or opposing the change. The main concerns with the change to policy 3(d) were:
    - reduced scope of intensification required,
    - including neighbourhood centres that might not have appropriate levels of commercial activity and community services,
    - the ambiguity of the term adjacent and not enabling intensification around public transport.
- One council noted that they have already started work to determine which areas policy 3(d) (as currently included in the NPS-UD) should apply and were concerned that their decisions could be challenged if they still enabled increased capacity in as many areas as they were going to under the current policy 3(d).
- Issues with an inconsistency in the application of the qualifying matters to areas subject to policy 3(d) were identified by Hutt City Council. A technical error was also identified.

Response

Officials recommend retaining policy 3(d) as drafted in the Bill with small revisions to address technical errors and the application of the qualifying matters. We consider there is sufficient scope in the Bill to make the MDRS more permissive for any other reason, so councils could make the MDRS more permissive to enable greater intensification, including around public transport and other commercial centres.

Ability to change definition of planning decision

The Bill enables the Minister for the Environment to amend the definition of planning decisions to correct a technical issue that has arisen during implementation.

Summary of submissions

- The Law Society requested that this change go through consultation.

Recommendation

The change is to correct a technical error that aligns with the policy intent of the NPS-UD. Once the change has been made, councils and other stakeholders will be informed as part of the implementation programme for this Bill.

Defining rapid transit and walkable catchments

Summary of submissions

- A small number of councils requested further definition of terms used in the NPS-UD "rapid transit" and "walkable catchments".

Response

We do not recommend a change to define these terms as we believe it is appropriate for councils to determine these matters. There are also established methods for determining walkable catchments and these methods are included in the guidance on the NPS-UD.

5.3 Transitional Clauses

Explanation

The Bill as drafted requires any proposed district plans or plan changes that have not had a hearing completed by 20 February 2022 to be withdrawn.

This approach was taken to ensure that the MDRS is applied consistently across tier 1 councils.

The Bill introduces a new requirement that any future private plan change request must include the MDRS requirements if they are relevant. Councils cannot accept or adopt a private plan change request if the MDRS is not incorporated.

Submissions

- Submitters, including multiple councils, developers, and a hapū group, noted the transitional provisions do not align with the broader intent of the Bill to enable housing supply. These submitters noted that housing development capacity will be reduced when proposed district plans or plan changes are withdrawn.
- Submitters, including both councils and developers, commented on the significant cost that can be incurred by private change applicants. These submitters pointed out that, under the current

drafting, these applicants will be faced with further financial cost if they must withdraw and resubmit.

- Submitters, including Askew Consulting, commented that the "completion" of a hearing is not a statutory trigger point under the RMA.
- Submitters, including Hugh Green Limited, noted that the scheduling of hearings can sometimes be outside of the applicant's control.
- Auckland Council noted in their submission that several private plan change applicants have accelerated their hearings in response to the introduction of this Bill.
- Four tier 1 councils notified proposed district plans (Porirua City Council, Waikato District Council, Selwyn District Council and Waimakariri District Council) before the Bill was introduced. In relation to these notified proposed district plans:
    - Two are at the stage of hearing submissions
    - Waikato District Council are due to release decisions shortly
    - Submissions close on the Waimakariri Proposed District Plan close on 26 November.
- Decisions on submissions must be released within two years of notification under schedule 1 clause 10 of the RMA.
- These four councils submitted that there are a large number of houses being enabled through plan changes that are already underway.
- Porirua City Council was preparing a variation to the proposed district plan to give effect the NPS-UD as the Proposed District Plan was notified before the NPS-UD was gazetted. Waikato District Council has already notified two variations to its proposed district plan.
- Submitters, including Tauranga City Council, Christchurch City Council and Selwyn District Council raised two main suggestions:
    - amend the Bill to give decision makers the ability to incorporate the MDRS requirements automatically into existing processes
    - provide for variations to incorporate the MDRS.
- Submitters, including Auckland Council, noted that under the current drafting, private plan change applicants are not compelled to withdraw their requests under the current drafting.
- The submission from Harrison Grierson also had an example of a private plan change to rezone land from rural to an existing residential zone that will be ready for lodgement with a council early next year and has taken three years to prepare.

Response

Officials agree that the provisions in the Bill risk impacting housing supply in the short-term and need to be replaced. We consider that proposed district and plans changes (including private plan changes) that are already in train at the time of enactment should be able to proceed.

Officials agree that current drafting specifying the completion of a hearing by 20 February 2020 as a trigger point for withdrawal of proposed plans or plan changes related to relevant residential zones does not deliver good outcomes. In response to submitters, we are proposing transitional pathways for proposed district plans and plan changes that have been notified by commencement of the Act, or private plan plans that will be lodged before notification of a council's IPI. We consider these trigger points are sufficient to capture work that is already underway on proposed district plans and plan changes.

In practice, there is no clear route for automatically updating plan changes to incorporate the MDRS, other than having decision makers on the proposed plan or plan change applying it at the time of decision. However, this option does not align with the ISPP, in which councils remain the decision makers on how the MDRS is incorporated (including application of qualifying matters).

Recommendations

We recommend these provisions are changed to ensure that council led plan changes and private plan changes that are well progressed can be transitioned appropriately, and the MDRS can be incorporated without the existing processes needing to be withdrawn. We recommend that plan changes can be varied through the ISPP to ensure the plan change incorporates the MDRS.

We propose that the transitional provisions enable a pathway for private plan changes that simply seek to rezone land to a relevant residential zone to proceed, noting the MDRS will apply when the Council Intensification Planning Instrument (IPI) incorporates the MDRS.

We recommend the transitional provisions are amended to provide for the following pathways.

Pathway	Description
For the four complete district plans reviews underway, councils will be able to vary these through the Intensification Planning Process, to incorporate the MDRS.	This option allows the four tier 1 councils that have already notified proposed district plan changes to proceed, and to incorporate the MDRS and other NPS-UD requirements via a variation. Further, this will mean: • Councils must incorporate the MDRS into the proposed district plan through a variation. • The variation is the council's intensification planning instrument and also needs to give effect to policies 3 and 4 of the NPS-UD. • The MDRS will have immediate legal effect in areas that are a relevant residential zone. • The variation incorporating the MDRS will use the ISPP and not be subject to appeals.

	• The contents of the proposed plan outside of the variation will continue along the normal process and be subject to appeals.
Current plan changes (including private plan changes) that have been notified at time of enactment can proceed	This option will: • Provide a pathway to notify a variation alongside the council's IPI to incorporate the MDRS and any consequential or related changes. • There will be no appeals on incorporation of the MDRS. • However, decisions on other components of the plan change (e.g. to rezone land rural to residential) will be still able to be appealed.
After enactment, new private plan change requests to rezone land can be accepted or adopted by a council where the IPI can incorporate the MDRS. This responds to the issue raised by Harrison Grierson above.	With this option: • Councils can decide to accept or adopt a rezoning request that proposes to adopt the provisions of the residential zone upon successful rezoning (noting that the zone would not necessarily have to incorporate the MDRS at this time) • Councils will not be required to use this pathway – they will also be empowered to reject a private plan change request that does not incorporate the MDRS, or use the existing RMA framework to consult with the applicant to modify the request to incorporate the MDRS • Once the IPI has been notified all new applicable plan change requests will have to include the MDRS.

5.4 Financial Contributions (clause 7)

Explanation

Financial contributions are authorised under the RMA and provide a funding tool to address the adverse effects of a development on the environment. While financial contributions are not widespread, some tier 1 and 2 councils to charge financial contributions, especially as ways to fund parks and reserves. Many councils that do not actively charge financial contributions on a widespread basis still have provisions in their plans or use them in ad-hoc cases.

There has been some ongoing ambiguity around the use and application of financial contributions, despite case law clarifying that financial contributions can be charged for permitted activities.[3] The Bill confirms that councils can include provisions in their plans to charge financial contributions for any class of activity, other than a prohibited activity. This will enable tier 1 councils (and tier 2 councils, if directed to adopt the MDRS) to charge for activities permitted by the MDRS. The Bill also clarifies that *all* councils are enabled to charge financial contributions for any activities that do not require resource consent. This includes councils that are not tier 1 or 2 councils.

Summary of submissions

- Submitters, mainly councils, commented on the provisions about financial contributions. The Greater Christchurch Partnership and Future Proof councils, Upper Hutt City Council and Gisborne District Councils were broadly supportive.
- Other councils who commented on these provisions did not express whether they were supportive or opposed.
- Some councils, including Auckland Council, raised questions about how the financial contributions would work in practice.
- The Law Society was concerned that the Bill would authorise a council to levy new financial contributions without any appeal rights by using the ISPP process.
- The main recommendations that submitters made were:
    - that financial contributions provisions should have immediate legal effect from August 2022
    - that further clarity was needed about the framework for charging financial contributions, including the purpose for what they can be charged for, and when they can be charged.

Recommendations

Currently the Bill would enable any changes to financial contributions policies that are proposed and going through the ISPP to have immediate legal effect when IPI's are notified in August 2022. We

[3] *Carterton District Council v McCarron and Butler [2014] DCR 90*

consider that it is more appropriate that financial contributions provisions should be subject to consultation through the ISPP before they have legal effect.

Appeals on any decisions around financial contributions provisions that go through the ISPP would be limited. This limitation of appeals may incentivise more councils to include provisions in their plans that go through the ISPP. We consider this limitation is appropriate as checks and balances including public consultation are built into the ISPP. Councils not going through the ISPP would have to follow standard plan making processes to set financial contributions policies.

MFE and HUD will issue guidance in 2022 about financial contributions as part of our implementation work programme to support the Bill. This guidance will seek to support councils to consider the appropriateness and use of financial contributions alongside other funding tools, such as development contributions. We will look to involve councils in the development of this guidance.

Chapter 6 Out of scope matters

This section notes further matters raised by submitters including those that do not directly relate to the contents of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill:

- process for developing the Bill, including engagement with iwi and local government
- construction and building sector constraints
- quality of construction
- demolition waste
- process for protecting notable trees
- changes to other Acts
- funding and financing models for infrastructure
- development restricting private land covenants
- immigration settings
- inclusionary zoning
- land acquisition.

Chapter 7 Recommendations by clause

General recommendation

We ask that the committee agree to the Parliamentary Counsel Office making minor technical or drafting amendments to the bill that may be needed.

We recommend that the committee note that any drafting of the changes recommended in the below tables are subject to the Parliamentary Counsel Office's approach to effecting the changes required.

PART 1 – SUBPART 1 Interpretation and definitions

Clause	Description	Proposed RMA section	Recommendations
4	Definition of equivalent zone	Section 2 amended	We recommend a minor clarification of the definition of equivalent zone
4	Definition of relevant residential zone	Section 2 amended	We recommend amending the definition of relevant residential zone and new residential zone to reflect deletion of definition of "urban environment" in s77E
4	Definition of relevant territorial authority	Section 2 amended	We recommend changing relevant territorial authority to specified territorial authority
5	Definition of district plan	Section 43AA amended	We recommend removing this definition as it is captured by an existing RMA definition (clause 20 of Schedule 1)
X	Potential definition of building standards		Will determine if a definition of building standards is needed as a technical matter
New clause 6A	Amendment to s53 RMA	Section 53 RMA amended	We recommend amending section 53 RMA: 53 Changes to or review or revocation of national policy statements (1) The Minister may review, change, or revoke a national policy statement after using one of the processes referred to in section 46A(1) in relation to the preparation of a national policy statement.

			(2) The Minister may, without using a process referred to in subsection (1),-- (a) amend a national policy statement if the amendment is of minor effect or corrects a minor error; or (b) amend the NPS-UD in accordance with section 77O(2). (3) A change, revocation, or amendment under this section is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

PART 1 – SUBPART 2 Medium Density Residential Standards (new clauses 77E – 77F) and other intensification policies (new clauses 77K – 77N)

Clause	Description	Proposed RMA section	Recommendations
7	Interpretation	New section 77E	Delete definition of "urban environment"
7	Interpretation	New section 77E	We recommend deleting the term "other intensification polices" as it is unnecessary, and make consequential changes in other clauses
7	Medium density residential standards must be incorporated into plans	Heading of New section 77F	Amend 77F to read: "~~Medium density residential standards must be incorporated into plans~~ Intensification requirements in relevant residential zones"
7	Medium density residential standards must be incorporated into plans	77F(2)	Replace 77F(2) with: (a) In order to give effect to subsection (1), when first incorporating the MDRS into its District Plan the relevant territorial authority must use the ISSP. Delete 77F(2)(b). It is not required as other sections of the RMA require a schedule 1 process to be used to amend the district plan.
7	Medium density residential standards must be incorporated into plans	77F	We recommend clarifying that: • the MDRS and corresponding objectives and policies must be incorporated into plans • other corresponding objectives and policies may also be added to the zone • a territorial authority does not need to adopt all of the standards • territorial authorities modify the MDRS to give effect to policy 3 or policy 5 where relevant, and if it is necessary to accommodate qualifying matters • policy 3 is modified if it is necessary to accommodate qualifying matters.

			We recommend adding a provision to s77F: (5) For the avoidance of doubt, existing provisions where these provisions are not inconsistent with the MDRS, do not need to be amended or removed from the district plan or proposed plan.
7	Qualifying matters in applying medium density residential standards to relevant residential zones	77G	We recommend adding Te Ture Whaimana – the Vision and Strategy for the Waikato River and other documents relevant to giving effect to iwi participation legislation or other legislation if appropriate as a qualifying matter. We recommend adding a reference to including the New Zealand Coastal Policy Statement in qualifying matter under (b).
7	Qualifying matters in applying medium density residential standards to relevant residential zones	77G	We recommend adding a clause which gives councils confidence that if a qualifying matter (for all qualifying matter categories except "other matters") has been through a plan making process, then it doesn't need to provide significant evidence and be relitigated through the ISPP. It can be carried across, and council's assessment is focused largely on how to accommodate that qualifying matter through appropriate heights and densities.
7	Requirements in relation to evaluation report	77H	We recommend the following technical amendments: • to clarify the role of territorial authorities • to ensure qualifying matters can be used to modify the relevant building height or density requirements under policy 3(c) and (d) • to ensure the language aligns with that used in 77G(h) and 77I(a), provided is more appropriate because Schedule 3A also includes requirements relating to restricted discretionary activities and notification requirements • for conciseness • to ensure requirements in relation to the evaluation report are consistent with the purpose of section 32 of the RMA.
7	Further requirement about application of section 77G(h)	77I	We recommend amending this section to clarify that qualifying matters can be used to modify the relevant building height or density requirements under policy 3(c) and (d) and for conciseness.
7	Effect of incorporation of MDRS in district plan	77J	We recommend the following technical amendments to s77J to clarify this section Amend s77J(2) as follows:

	on new applications for resource consents		"(2) If this section applies, the consent authority considering the new application must consider the plan or proposed plan and apply section 104(1)(b)(vi) in the following way: (a) the provisions of the district plan or any proposed district plan (other than the intensification planning instrument), to the extent that these are inconsistent with the ~~requirements of the MDRS~~notified provisions of the intensification planning instrument, cease to have effect in relation to the consideration of the new application; and (b) the provisions of the intensification planning instrument ~~that incorporate the MDRS (as set out in Schedule 3A)~~ apply in determining that new application. (3) This section does not apply in relation to any area or site that is ~~a permissive area or~~ a qualifying matter area (within the meaning of section 86B(6)) or is in a new residential zone as notified in the intensification planning instrument. We recommend making consequential changes to s77J reflect the amendments made to s86B in relation to immediate legal effect scope. We recommend including a new provision in section 77J(2)) that: Any objectives or policies of an RPS or proposed RPS, or regional plan or proposed regional plan do not apply to the consent authority's consideration of the new application to the extent they are inconsistent with the requirements of the MDRS.
7	Effect of incorporation of MDRS in district plan on new applications for resource consents	77J	We recommend amending the heading of s77J to add the words "Effect of incorporation of MDRS in district plan on new applications for resource consent and on some existing designations" We recommend adding the following new subsection in s77J: "If a designation for which the Minister of Education is the requiring authority is included in the relevant territorial authority's district plan and the designation applies to land that is in a relevant residential zone or adjoins a relevant residential zone, works undertaken under that designation may rely on the provisions of the relevant residential zone that incorporate the

			Building Standards in Part 2 of Schedule 3A if these are more permissive than conditions included in the designation."
7	Duty of relevant territorial authorities to incorporate other intensification policies into plans	77K	We recommend deleting 77K(3)(b) because policy 3 sets minimum levels of enabled development, so by nature allows more permissive requirements.
7	Qualifying matters in application of other intensification policies to urban non-residential areas	77L	We recommend adding Te Ture Whaimana – the Vision and Strategy for the Waikato River and other documents relevant to giving effect to iwi participation legislation or other legislation if appropriate as a qualifying matter. We recommend adding a reference to including the New Zealand Coastal Policy Statement in qualifying matter under (b).
7	Amendment of NPS-UD	77O	We recommend deleting Subclause (3) and instead providing for the process for amending the NPS-UD under s53 of the RMA.
7	Amendment of NPS-UD	77O(1)	We recommend replacing "community centres" with "community services".

PART 2 – SUBPART 3 Relevant territorial authority must notify intensification planning instrument

Clause	Description		Recommendations
8	Regulations requiring tier 2 territorial authority to change district plan	80E	We recommend updating this clause so any other territorial authority can ask the Minister for the Environment to adopt the MDRS via the ISPP and make consequential changes to other clauses.
8	Adding tier 2 to the Act	80E(4)	We recommend that before the Minister for the Environment requires a territorial authority to incorporate the MDRS, they consult the Minister for Māori Crown Relations as well as the Minister of Housing.
8	Order in Council criteria	80E(5)	We recommend that the 'median multiple' does not need to be calculated on the basis of publicly available data (which the Minister for the Environment has regard to in determining that a territorial authority is experiencing an acute housing need)
8	Limitations on intensification	80G	Expand the scope of what may be included in an intensification planning instrument to also include:

	planning instrument		• Changes to provisions (including objectives, policies, standards, rules and zones) that are consequential and complementary of the MDRS and NPS-UD intensification policies • For the avoidance of doubt this may include provisions relating to subdivision, fences, earthworks, district-wide, infrastructure, qualifying matters, hydraulic neutrality/stormwater management • Changes to enable provision of papakāinga
8	Drafting improvement	80H	We recommend deleting "and therefore cease to apply to new applications" as it is unnecessary.
8	ISPP direction	80K	We recommend adding to this clause a requirement that the IHP must comply with the direction and statement of expectations.

PART 2 – SUBPART 4 When rules incorporating MDRS have legal effect and are operative

Clause	Description	Relevant policy proposal(s)	Recommendations
9	Immediate legal effect of rules	Amendment to s86B RMA	We recommend amending the heading to remove reference to rules becoming operative as this is covered under usual process of plans becoming operative. We recommend the following additional wording be added to this section: "A rule in a district plan which is inconsistent with a rule under subsection (3A) ceases to have legal effect from the time the rule under subsection (3A) has immediate legal effect. For the avoidance of doubt, it will no longer be treated as an operative provision of the plan." We recommend amending s86A so that only specified MDRS and the MDRS objectives and policies have immediate legal effect.
10	When rules in proposed plans treated as operative	Amendment to s86F RMA	We recommend deleting this clause.

PART 2 – SUBPART 1 Intensification streamlined planning process amendments to Schedule 1

Clause	Description	Relevant policy proposal(s)	Recommendations
14	Independent Hearing Panel	96	We recommend the composition of the Independent Hearings Panel include tikanga capability, and that the appointment of this member should be made in consultation with relevant iwi authorities.
14	Hearing process	97	We recommend that the relevant territorial authority be required to provide the documents or information to the independent hearings panel as soon as is reasonably practicable
14	Hearing process	99	We recommend clarifying this clause to read: The independent hearings panel— (a) is not limited to making recommendations only within the scope of submissions made on the intensification planning instrument: provided that: any recommendations it makes have been ~~(b) may make recommendations on any other matters relating to the intensification planning instrument~~ identified by the panel or any other person during the hearing.
14	The Minister's decision	104	We recommend adding a new section that modifies cl 84 of Sch 1: • the Minister must have particular regard to the terms of the direction

PART 2 – Schedule 1 - New Schedule 3A

Clause	Description	Relevant policy proposal(s)	Recommendations
Schedule 3	Part 2	New Schedule 3A	We recommend changing where Part 2 is used in Schedule 3A to read Part 2 of Schedule 3A

2	Permitted activities	Clarify reference to other building and engineering standards	We recommend updating the terminology including "building standards" and "engineering standards" to give a clearer idea of what the standards relate to We recommend amending clause 2(3): (3) There must be no other building standards included in a district plan additional to those set out in Part 2 relating to a permitted activity <u>for a residential unit.</u> We recommend clarifying that councils may still retain provisions in their district plans as long as they are not inconsistent with the MDRS. This includes provisions relating to subdivision, fences, earthworks, district-wide, infrastructure, qualifying matters, hydraulic neutrality/stormwater management.
Add clause X	Controlled activities	Apply a controlled activity status to subdivision consents associated with MDRS	We recommend inserting after clause 2 and before clause 3, and renumber: <u>Subdivision requirements must allow as a controlled activity subdivision of land in accordance with construction and use in clauses (2) and (3).</u> AND redraft clause 5: Any subdivision provisions (including rules and standards) must be consistent with the level of development permitted under the other clauses of this schedule<u>, including considering subdivision applications as a controlled activity.</u>
4	Certain notification requirements precluded	Notification requirements – not publicly notifying associated subdivision consents	We recommend amending the clause to clarify that it does not override the general notification provisions in the RMA. We also recommend inserting: <u>(3) Public and limited notification of a subdivision application is precluded where the subdivision is associated with the construction and use undertaken in accordance with sub-clauses (1) and (2) above.</u>
Add clause X	Objectives and policies	New objectives and policies to support the MDRS	We recommend inserting the following objectivise and policies after clause 4 and a requirement that councils incorporate these into their plans. Councils may add additional objectives and policies to support the MDRS: <u>(1) Objectives</u> <u>Objective 1: Well-functioning urban environments that enable all people and</u>

			communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future. Objective 2: The zone provides for a variety of housing types and sizes that respond to: (a) Housing needs and demand; (b) The neighbourhoods planned urban built character of predominantly three-storey buildings. (2) Policies Policy 1 - Enable a variety of housing typologies with a mix of densities within the zone, including three-storey attached and detached dwellings, and low-rise apartments. Policy 2 – Apply the zone across the residential areas of the urban environment except in circumstances where a qualifying matter is relevant. Qualifying matters, including matters of significance such as historic heritage and the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga. Policy 3: Encourage development to achieve attractive and safe streets and public open spaces including by providing for passive surveillance. Policy 4: Require housing to be designed to meet the day to day needs of residents by requiring: (a) access to daylight (b) providing outlook (c) useable and accessible outdoor living space (d) landscaped areas. Policy 5: Provide for the development of four or more residential units or developments which do not meet the building standards, while encouraging high-quality developments.

6	Further rules about subdivision requirements	To clarify that vacant lot subdivision is not enabled by the MDRS, otherwise this may circumvent the need to apply for a resource consent for four or more units	We recommend amending the clause: 6 Further rules about subdivision requirements Without limiting clause 5,— (a) there must be no minimum lot size, shape size, or other size-related subdivision requirements for the following: (i) any allotment with an existing residential unit, if the subdivision does not increase the degree of any non-compliance with the building standards set out in Part 2: (ii) ~~any allotment with no existing residential unit, or for which no existing land use consent for a residential unit has been granted, or (~~in the case of joint land use and subdivision applications~~)~~ for which applications are being concurrently considered, if it can be demonstrated by the applicant for the resource consent— (A) that it is practicable to construct on every allotment within the proposed subdivision, as a permitted activity, a residential unit; and (B) that each residential unit complies with the building standards set out in Part 2 <u>(iii) no vacant allotments are created:</u> (b) there must be no minimum lot size, shape size, or other size-related subdivision requirements for the subdivision of land around residential units if— (i) they are approved under a land use resource consent; and (ii) no vacant allotments are created.
10	MDRS (Height in relation to boundary)	**5m** plus 60 degrees on all boundaries except road boundaries.	Recommend amending as follows and update diagram. Buildings must not project beyond a 60° recession plane measured from a point <u>5</u> metres vertically above ground level along all boundaries, as shown on the following diagram. Where the boundary forms part of a legal right of way, entrance strip, access site, or

			pedestrian access way, the height in relation to boundary applies from the farthest boundary of that legal right of way, entrance strip, access site, or pedestrian access way.
13	MDRS (Impervious Area)		We recommend deleting this standard, renumbering (as will be addressed by councils as district-wide stormwater matter, see above). ~~13 Impervious area~~ ~~The maximum impervious area must not exceed 60% of the site area.~~
14	MDRS (Outdoor living space)		Recommend amending an existing clause and inserting a new sub-clause (and renumber) and update diagram: A residential unit at ground floor level must have an outdoor living space that is at least ~~15~~ 20 square metres and that comprises ground floor or balcony or patio or roof terrace space that,— (a) where located at ground level, has no dimension less than 3 metres; and (b) where provided in the form of a balcony, patio, or roof terrace, is at least 8 square metres and has a minimum dimension of 1.8 metres; and (c) is accessible from the residential unit; (x) may be grouped in one area communally accessible, or located directly adjacent to the unit and (d) is free of buildings, parking spaces, and servicing and manoeuvring areas. We recommend inserting a new sub-clause: A residential unit located above ground floor level must have an outdoor living space in the form of a balcony, patio or roof terrace that: a) is at least 8 square metres and has a minimum dimension of 1.8 metres; b) is accessible from the residential unit c) may be located directly adjacent to the unit, or grouped in one communally accessible area in which case it may be located at ground level
15	MDRS (Outlook space)		We recommend inserting a new clause before (1): Outlook spaces must be provided for each residential unit as set out in this clause. We recommend amending clause 15(1) as follows:

			An outlook space must be provided from habitable room windows as shown in the diagram below. ~~Where the room has 2 or more windows, the outlook space must be provided from the largest area of glazing.~~ Amend clause 15(2) as follows: The minimum dimensions for a required outlook space are as follows: (a) a principal living room must have an outlook space with a minimum dimension of ~~3~~ 4 metres in depth and ~~3~~ 4 metres in width; and (b) windows in all other habitable rooms must have an outlook space with a minimum dimension of 1 metre in depth and 1 metre in width. Amend clause 15(4) as follows: Outlook spaces may be over driveways and footpaths within the site or over a public street or other public open space. Insert the following additional sub clause after (4) and adjust clause numbering (5) Outlook spaces may overlap where they are on the same wall plane for multi-storey buildings. For clarity outlook spaces may be under or over a balcony.
additional clause XX	MDRS (Windows to street)		We recommend inserting the following additional clause after clause 15 Any building or part of a building facing the street must have a minimum of 20% of the street facing façade in glazing. This can be in the form of windows, doors or sliding doors.
additional clause XX	MDRS (Landscaped area)		We recommend inserting the following additional clause after new clause 16 A landscaped area of a minimum of 20% of a site with grass or plants, and can include the canopy of trees regardless of the ground treatment below them. (a) The monitoring of the landscaped area may occur only once, at or within 12 months of construction completion.

PART 2 – Schedules 1 and 3

Clause	Description	Proposed RMA section	Recommendations
Schedule 2	Policy 3(d)	New Schedule 3B	We recommend replacing "community centres" with "community services".
Schedule 3	Transitional provisions	New Part 4	We recommend replacing this schedule with new provisions that: • provide for plan changes and proposed district plans already underway to continue and use a variation process to incorporate the MDRS, and the NPS-UD intensification requirements • exclude operative plans from needing to incorporate the MDRS and the NPS-UD intensification requirements where a proposed district plan has already been notified • enable new plan change requests to be accepted or adopted when the IPI can incorporate the MDRS.

Appendix 1: Additional submissions summary

Council, Iwi/Māori Representative Groups and Crown Entities Submissions Summary

Introduction

This submissions summary covers submissions from councils, council-controlled organisations, iwi/Māori representative groups and Crown entities on the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill, as requested by the Environment Committee. This summary follows the general structure of the Departmental Report and breaks the submissions into key themes and subthemes. The intention of this summary is to capture the main submission points.

Submitters

Councils

- Auckland Council
- Bay of Plenty Regional Council
- Christchurch City Council
- Dunedin City Council
- Gisborne District Council
- Greater Christchurch Partnership
- Hamilton City Council
- Hamilton City Council and the Future Proof Councils
- Hutt City Council
- Kāpiti Coast District Council
- Nelson City Council
- New Plymouth District Council
- Palmerston North City Council
- Porirua City Council Supplementary
- Porirua City Council
- Queenstown-Lakes District Council
- Rotorua Lakes Council
- Selwyn District Council
- Tasman District Council
- Taupō District Council
- Tauranga City Council
- Upper Hutt City Council
- Waikato District Council
- Waipā District Council
- Waikato Regional Council
- Waimakariri District Council
- Wellington City Council
- Western Bay of Plenty District Council
- Whangarei District Council

Council-controlled organisations

- Wellington Water

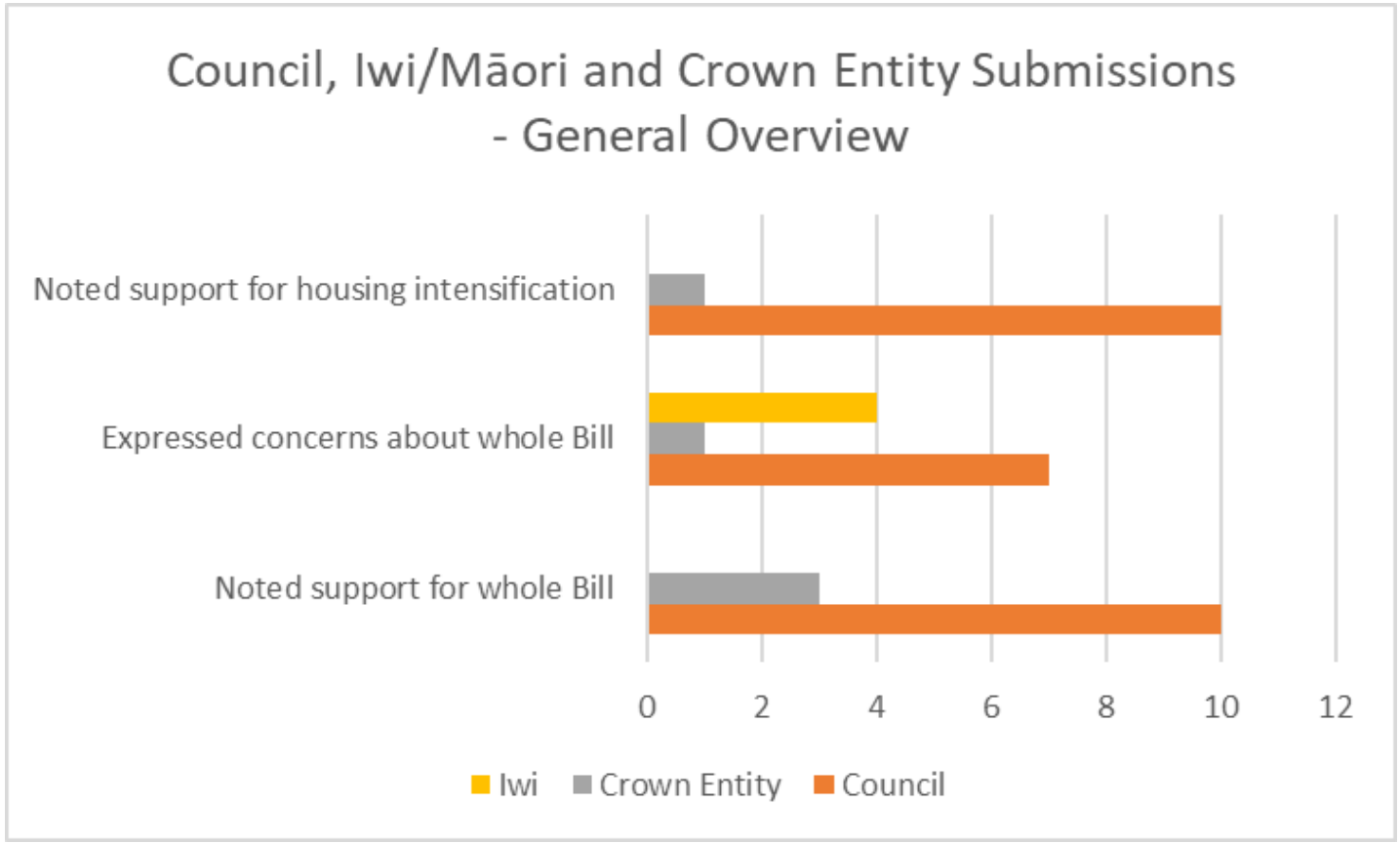
Iwi and Māori organisations

- Ngā Maunga Whakahii a Kaipara
- Ngaati Whanaunga Incorporated Society
- Ngāti Tamaterā Treaty Settlement Trust
- Ngāti Whātua o Ōrākei
- Tāmaki Makaurau Mana Whenua
- Waikato River Authority
- Waikato-Tainui
- Te Awara Lakes Trust
- Te Rūnanga o Ngāi Tahu
- Ngāti Manuhiri Settlement Trust
- Te Waiariki, Ngāti Korora, Ngāti Taka
- Te Tatau o Te Arawa

Crown Entities

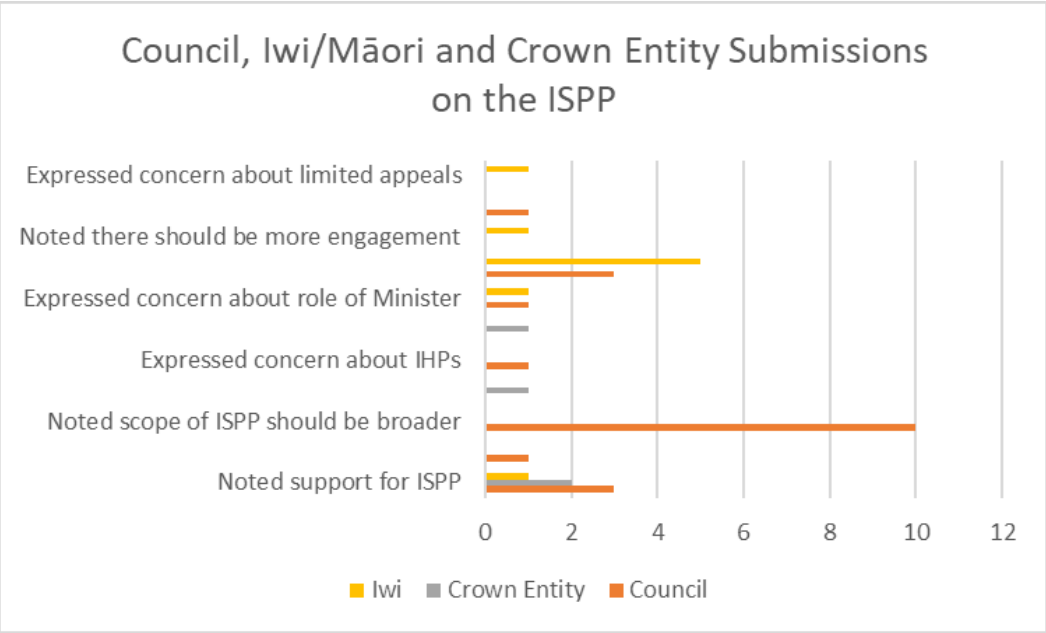
- Kāinga Ora
- Nelson Marlborough Health
- Kiwirail
- Transpower
- The Earthquake Commission
- Heritage New Zealand Pouhere Taonga
- New Zealand Infrastructure Commission/Te Waihanga

General Overview



Key themes

Intensification Streamlined Planning Process



Subtheme	Submission	Submitter Type	Submitters
Use of the ISPP	Noted support of the ISPP and its benefits	Council	- Wellington City Council - Porirua City Council - Rotorua Lakes Council - Waikato Regional Council
		Iwi/ Māori organisation	- Ngāti Whātua o Ōrākei - Waikato-Tainui
		Crown Entity	- Kāinga Ora
	Requested to allow the ISPP to be used multiple times or for more than one instrument to be notified at a time	Council	- Wellington City Council - Kāpiti Coast District Council

			- Selwyn District Council - Western Bay of Plenty District Council - Porirua City Council - Tauranga City Council - Hamilton City Council
	Requested to allow the ISPP to be used more than once to resolve future issues	Council	- Wellington City Council - Tauranga City Council - Rotorua Lakes Council - Tasman District Council
	Requested to allow the ISPP to be used to implement most/all the NPS-UD requirements	Council	- Upper Hutt City Council - Wellington City Council - Hutt City Council - Rotorua Lakes Council - Porirua City Council
	Requested to use the SPP instead of the ISPP and undertaking a broader plan change with it	Council	- Porirua City Council
	Requested to streamline the ISPP process further since there are no rights of appeal	Council	- Tasman District Council
	Requested to delayed ISPP timeframes so they do not overlap with local government elections	Council	- Selwyn District Council
	Requested to extend the ISPP timeline	Council	- Waimakariri District Council
	Requested inclusion of plan changes lodged prior to August 2022 to be accepted into the ISPP	Iwi/ Māori organisation	- Ngāti Whātua o Ōrākei
Scope of the ISPP	Requested to allow tier 1, 2 and 3 councils to use the ISPP for all district plan growth related plan changes	Council	- Gisborne District Council - Rotorua Lakes Council
		Iwi/Māori organisation	- Te Tatau o Te Arawa
	Requested clarity on the scope of provisions in a district plan that are to be progressed through the ISPP	Council	- Wellington City Council - Rotorua Lakes Council
	Requested a specific provision to use the ISPP for the whole of district plan review	Council	- Wellington City Council - Rotorua Lakes Council

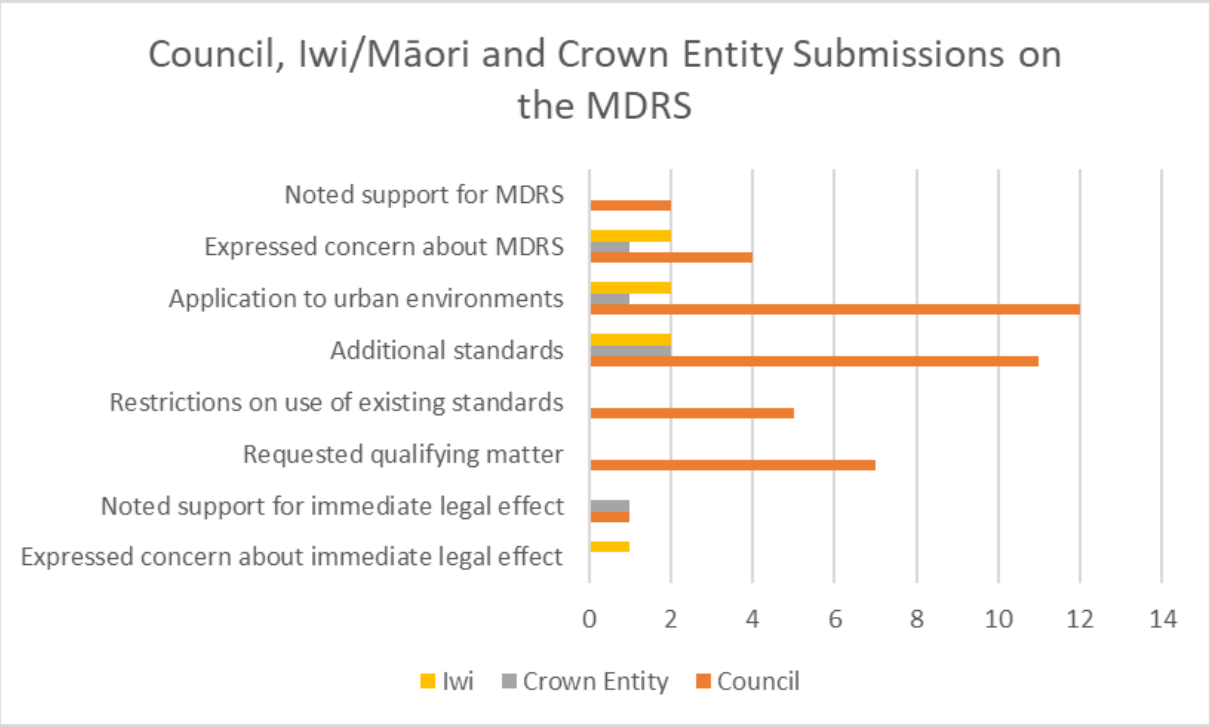
	Requested clarification situations in which the ISPP is "inapplicable" including the situation where a new plan has been proposed that gives effect to the MDRS	Council	- Hutt City Council
	Requested clarification on matters which may be included within an ISPP under S80G	Council	- Western Bay of Plenty District Council
	Requested the ability to use the ISPP to implement policy 5 of the NPS-UD without implementation of the MDRS	Council	- Queenstown Lakes District Council
	Requested the ability to use the ISPP for comprehensive rezoning of greenfield growth areas	Council	- Tauranga City Council
The Minister's direction of IHPs	Expressed concern about the delay the Ministerial direction could have on planning and resourcing the IPH	Council	- Wellington City Council
	Expressed concern about meeting implementation time frames	Councils	- Futureproof Councils
Ability to rewrite zones and related provisions	Noted the Bill may not enable them to rewrite zone chapters to implement the MDRS, including where changes are necessary to be consistent with the national planning standards.	Council	- Hutt City Council
	Requested that the scope of what can be included in an IPI is too narrow	Council	- Christchurch City Council
	Requested to use the IPI/ISPP for a plan change or full district plan review processes	Council	- Christchurch City Council
	Requested for the ISPP should be available to all councils for growth related plan changes	Council	- Tauranga City Council
	Requested provision for more complex greenfield rezoning/wider types of greenfield rezoning	Council	- Kāpiti Coast District Council - Porirua City Council
Papakāinga and Māori land	Requested clarification on whether papākāinga provisions could be incorporated into the ISPP	Council	- Kāpiti Coast District Council
	Expressed concerns about whether papakāinga aligns with the MDRS	Iwi/ Māori organisation	- Makaurau Marae Māori Trust
	Requested clarification and changes to assist Māori led housing and to enable papkāinga	Council	- Greater Christchurch Partnership
	Requested more specificity in the Bill regarding the development of Māori owned land	Council	- Christchurch City Council

Qualifying matters	Expressed concern that council would have to run several simultaneous plan processes for this purpose, which would be confusing	Council	- Hutt City Council
	Requested to progress their full plan review through the ISPP and this would include plan changes for Significant Natural Areas	Council	- Wellington City Council
Regional Policy Statements	Requested clarity that the ISPP does not apply to regional policy statements or regional plan changes	Council	- Nelson City Council
Regional Policy Statements	Requested clarity as to how this bill will impact existing settlement acts in place that prevail over the RMA and its planning and policy instruments.	Iwi/ Māori organisation	- Waikato-Tainui
		Council	- Waikato Regional Council
	Requested the ability for regional policy statements to be updated through the IPI	Council	- Nelson City Council
Iwi and Māori consultation	Requested more consultation including consultation with iwi authorities.	Council	- Hutt City Council - Waikato Regional Council
		Iwi/Māori organisation	- Ngā Maunga Whakahii a Kaipara - Ngāti Tamaterā Treaty Settlement Trust - Waikato-Tainui - Ngāti Whātua o Ōrākei - Te Arawa Lakes Trust - Te Rūnanga o Ngāi Tahu - Ngāti Manuhiri Settlement Trust - Te Waiariki, Ngāti Korora, Ngāti Taka
	Requested that the Bill needs further consideration to address the ability for tangata whenua to consider the impact of intensification and engage in structure planning and consent processes	Council	- New Plymouth District Council - Tauranga City Council
		Iwi/ Māori organisation	- Ngā Maunga Whakahii a Kaipara - Ngāti Tamaterā Treaty Settlement Trust - Ngāti Whātua Ōrākei - Te Arawa Lakes Trust - Te Tatau o Te Arawa

	Requested that Te Tiriti partnerships are appropriately reflected by having hapū and iwi co-develop IPIs and be involved in the decision-making on the final form of IPIs, along with territorial authorities. One option suggested was establishing territorial authority/tangata whenua committees with delegated power to make decisions on IPIs.	Iwi/Māori organisation	- Te Awara Lakes Trust - Ngāti Tamaterā Treaty Settlement Trust
	Requested recognition of iwi/hapū plans	Iwi/ Māori organisation	- Ngāti Manuhiri Settlement Trust
Public participation	Requested sufficient opportunity for public engagement and involvement	Council	- Tasman District Council
	Requested that further submissions add little value and they should be removed as a step in the ISPP.	Council	- Whangārei District Council -
Appointment and expertise of IHP	Requested that IHPs contain membership that have Te Ao Māori skills, a working knowledge and experience of Treaty matters and on the ground knowledge of housing issues faced by local hapū and iwi. Further requests that appointments to IHPs should be made in conjunction with local hapū and iwi.	Iwi/Māori organisation	- Te Awara Lakes Trust
Joint independent hearing panels	Requested a clarification that joint hearings could be available to councils, which would have a single independent hearing panel conducting hearings for multiple territorial authorities.	Council	- Future Proof Councils (Waipa District Council, Waikato District Council, Hamilton City Council)
Matters the IHP may consider	Requested the IHP's scope to be limited to points made in submissions.	Council	- Selwyn District Council
Decision making	Requested that IHPs can commission a report on any matter if that that matter may have a significant adverse environmental impact, and subsequent reports and recommendations can be made	Council	Auckland Council
	Raised concerns about a lack of timeframe for the Minister to make a decision	Council	- Auckland Council

Decision making	Requested for the Minister to consult with the Chief Executive of the relevant council when making a decision under section 80I(1)(c)	Council	- Auckland Council
	Requested that iwi authorities should be included in the decision-making process with the Minister making the final decision	Iwi/Māori organisation	- Ngā Maunga Whakahii o Kaipara
	Requested that the Environment Court should be the decision-maker, rather than the Minister for the Environment due to its expertise.	Council	- Christchurch City Council - Auckland Council
		Iwi/ Māori organisation	- Ngaati Whanaunga Incorporated Society
	Requested clarification of alignment of the IHPs and the Local Government Official Information and Meetings Act	Council	- Tasman District Council
Appeals on plan changes	Requested to not use the Schedule 1 processes for MDRS provisions where there is no discretion to amend the provisions	Council	- Auckland Council
	Noted support for the lack of appeal rights	Council	- Rotorua Lakes District Council
Other	Requested funding assistance to aid in implementing the ISPP	Council	- Christchurch City Council
Other	Requested clarification as to why the ISPP was needed when the process could be done by way of Ministerial direction without a Schedule One RMA	Council	- Tasman District Council

Medium Density Residential Standards Package



Subtheme	Submission	Submitter type	Submitters
MDRS generally	Expressed concern with the current definition of urban environments	Council	– Futureproof councils – Porirua City Council – Selwyn District Council – Waipā District Council
	Noted the MDRS would increase housing supply	Crown entity	– Kāinga Ora – New Zealand Infrastructure Commission/ Te Waihanga
		Council	– Auckland Council

	Expressed concern about the MDRS applying to all relevant residential zones		– Bay of Plenty Regional Council – Christchurch City Council – Dunedin City Council – Gisborne District Council – Upper Hutt City Council – Hutt City Council – Wellington City Council – Futureproof councils – Western Bay of Plenty District Council – Tauranga District Council – Porirua City Council – Queenstown Lakes District Council – Hamilton City Council – Greater Christchurch Partnership
		Iwi/ Māori organisation	– Ngāti Tamaterā Treaty Settlement Trust – Ngāti Whātua o Ōrākei – Te Arawa Lakes Trust – Ngaati Whanaunga Incorporated Society
	Requested that the MDRS should not apply where properties are serviced by onsite infrastructure	Council	– Whangārei District Council – New Plymouth District Council
	Requested a targeted application of the MDRS	Council	– Gisborne District Council – Kāpiti Coast District Council – Christchurch City Council – Upper Hutt City Council – Wellington City Council – Hutt City Council – Western Bay of Plenty District Council – Waikato District Council – Waipā District Council

			– Tauranga City Council – Queenstown Lakes District Council – Selwyn District Council – Tasman District Council – Waimakariri District Council – Palmerston North City Council – Auckland Council – Greater Christchurch Partnership
		Iwi/Māori organisation	– Ngāti Whātua o Ōrākei – Ngaati Whanaunga Incorporated Society
		Crown Entity	– Heritage New Zealand Pouhere Taonga
	Requested clarity on the term 'acute housing need'	Council	– Whangārei District Council – Gisborne District Council – Nelson City Council – Queenstown Lakes District Council – Tasman District Council
	Noted that modified MDRS should apply to all tier 1, 2 and 3 authorities that have acute housing needs	Council	– Gisborne District Council
	Requested that acute housing needs decisions are made in conjunction with hapū and iwi as Treaty partners	Iwi/Māori organisation	– Te Arawa Lakes Trust
	Requested to modify the MDRS to include a greater acknowledgement of well-being	Council	– Christchurch City Council
	Expressed concern that MDRS does not take topography into account	Council	– Christchurch City Council
	Requested the inclusion of objectives and policies in the Bill	Council	– Wellington City Council – Tauranga City Council
	Noted support for the exclusion of large lot residential zones from the application of the MDRS	Council	– Christchurch City Council – Tasman District Council
	Requested that MDRS standards only applies to multi-unit developments	Council	– Christchurch City Council – Selwyn District Council – Hamilton City Council

	Requested that the MDRS are re-cast in the Bill as an optional tool for Tier 1 councils to use	Council	– Auckland Council
	Requested that the MDRS do not apply to the National Grid Yard	Crown Entity	– Transpower
Activity status and notification of consents	Expressed concern about allowing single dwellings to use the same enabling building standards as three units	Council	– Wellington City Council
	Requested a controlled activity status for MDRS	Council	– Tauranga City Council
	Requested that non-notified resource consents must demonstrate commitment to mitigating climate change	Iwi/Māori organisation	– Ngā Maunga Whakahii a Kaipara
Tier 2s	Requested that the MDRS should be a more tailored application in tier 2 areas	Councils	– Whangārei District Council – Tasman District Council
	Noted support for the MDRS and ISPP to apply to tier 2 councils	Crown Entity	– Kāinga Ora
	Expressed concern about the criteria for the MDRS to apply to tier 2 councils	Councils	– Dunedin City Council – New Plymouth District Council – Queenstown Lakes District Council
	Requested for the power given to the Minister to direct tier 2 councils be removed, or at least amended to ensure the power will only be exercised with the agreement of tier 2 councils	Council	– Tasman District Council
Subdivision	Expressed concern that multiple subdivisions are enabled on three sites, which could later have three units built on each	Council	– Auckland Council – Christchurch City Council
	Requested the subdivision standards in the AUP be adopted	Council	– Auckland Council
	Expressed concern that a permitted activity status may be problematic given technical nature of development	Council	– Tasman District Council
	Expressed concern with a lack of minimum subdivision size	Council	– Upper Hutt City Council – Christchurch City Council – Tauranga City Council
	Requested to not allow subdivision under clause 6(a)(ii) so councils retain influence of development outcomes where more than three units are built on a site	Council	– Kāpiti Coast District Council

	Requested clarification of subdivision consent status due to concerns about increased freehold and leasehold properties. Wanted to ensure subdividing is not a permitted activity	Council	– Tasman District Council
Proposed building standards	Noted approval of less resource consents	Council	– Wellington City Council
	Requested clarity on what is considered a building standard and an engineering standard or other standard	Council	– Wellington City Council – Upper Hutt City Council – Hutt City Council – Christchurch City Council – Porirua City Council – Selwyn District Council – Hamilton City Council – Waimakariri District Council
	Requested a working group on MDRS	Council	– Auckland Council
	Requested a decreased height standard	Council	– Upper Hutt City Council – Christchurch City Council (9m + 2)
	Requested a decreased HIRB/recession plane	Council	– Upper Hutt City Council – Western Bay of Plenty District Council – Dunedin City Council – Christchurch City Council – Waimakariri District Council
	Requested the HIRB only applies to the front half of the section	Council	– Selwyn District Council
	Requested that Auckland Council's alternative HIRB standard is used	Council	– Auckland Council – Tauranga City Council
		Iwi/ Māori organisation	– Ngāti Whātua o Ōrākei
	Requested increased front setbacks	Council	– Auckland Council
	Requested side setbacks of 2m to the north and west (in relation to sunlight)	Council	– Selwyn District Council
	Requested changes to the outdoor living space to incorporate sunlight hours and/or orientation	Council	– Selwyn District Council – Tauranga City Council

	Requested increased outdoor living space	Council	– Tauranga City Council – Upper Hutt City Council – Christchurch City Council (4 x 4) – Porirua City Council
		Iwi/ Māori organisation	– Ngaati Whanaunga Incorporated Society
	Requested increased outlook space for principal window	Council	– Auckland Council – Tauranga City Council
		Iwi/ Māori organisation	– Ngāti Whātua o Ōrākei
	Noted support for current building coverage standard	Councils	– Dunedin City Council
	Requested decreased building coverage	Iwi/ Māori organisation	– Ngaati Whanaunga Incorporated Society
	Noted support for current impervious surfaces standard	Council	– Dunedin City Council
	Requested to limit the 11m building height tothree storey development only	Council	– Christchurch City Council
	Requested to allow for Hydraulic neutrality considerations as a district wide provision.		– Kāpiti Coast District Council – Porirua City Council
	Requested removal of common walls on adjacent site provisions	Council	– Christchurch City Council
	Requested that the building standards do not restrict application of other council performance standards	Council	– Western Bay of Plenty District Council – Porirua City Council
	Requested district-wide matters still apply to residential areas	Council	– Porirua City Council
Additional standards proposed	Street interface	Council	– Tauranga City Council – Hamilton City Council – Palmerston North City Council
	Maximum building length	Council	– Auckland Council
	Minimum density	Council	– Christchurch City Council (15 houses per hectare) – Tauranga City Council – Selwyn District Council

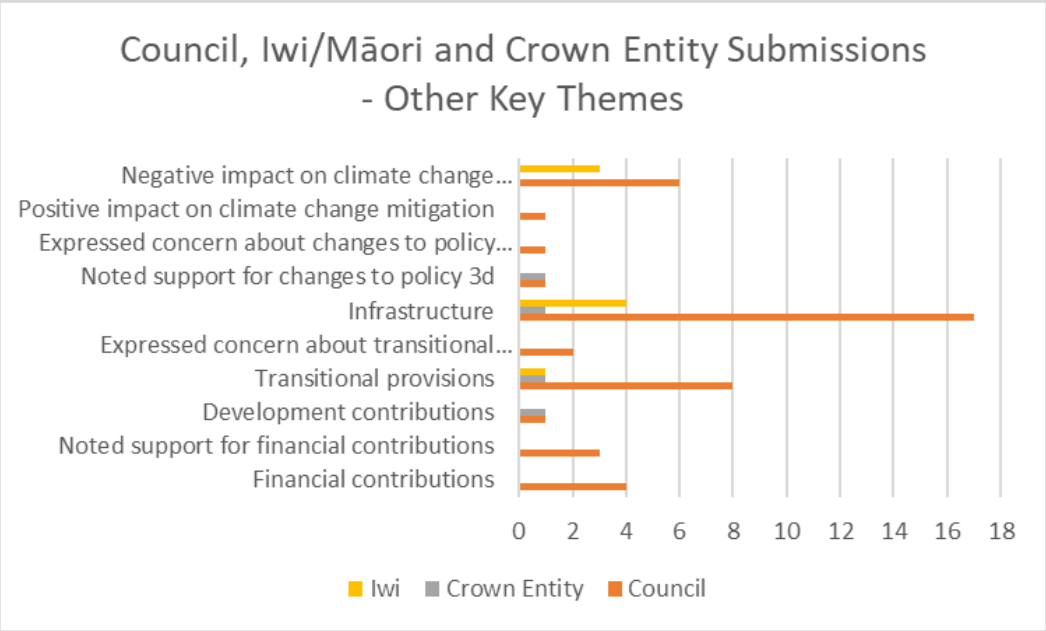
	Minimum site size and minimum residential unit sizes	Council	– Selwyn District Council
	Landscaping standard	Council	– Christchurch City Council (20 percent site coverage) – Selwyn District Council (20 percent site coverage) – Hamilton City Council – Tauranga City Council – Palmerston North City Council – Greater Christchurch Partnership
	Minimum floor area	Council	– Tauranga City Council
	Provide a 10 m service area per unit for common storage/service space	Council	– Selwyn District Council
	Setbacks in relation to Māori Purpose Zone	Council	– Tauranga City Council
	Setbacks in relation to water bodies	Council	– Christchurch City Council
	Buffer zones around open spaces such as parks	Council	– Christchurch City Council
	Adequacy to connect to water infrastructure with adequate capacity	Council	– Auckland Council – Christchurch City Council
	Grouped outdoor living space	Council	– Wellington City Council – Upper Hutt City Council – Palmerston North City Council – Christchurch City Council
	Requested that developers are required to undertake site-specific natural hazard risk assessments, including residual risk	Council	– Futureproof councils
	Accessibility	Council	– Hamilton City Council
		Crown Entity	– Nelson Marlborough Health
	Crime prevention through environmental design	Council	– Hamilton City Council – Tauranga City Council
	Minimum areas for waste management	Council	– Tauranga City Council
	Minimum bicycle parking standards	Council	– Tauranga City Council
	Fencing standards	Council	– Tauranga City Council

	Requested to allow communities to establish additional standards under a schedule 1 RMA process	Council	– Palmerston North City Council
	Noise and vibration setback standards	Crown Entity	– Kiwirail
Qualifying matters	Requested that a lack of appropriate inrfastructure be considered a QM	Council	– Wellington City Council – Dunedin City Council – Nelson City Council – Kāpiti Coast District Council – Futureproof Councils – Tauranga City Council
		Iwi/ Māori organisation	– Ngāti Tamaterā Treaty Settlement Trust – Waikato- Tainui
		Council Controlled Organisation	– Wellington Water
		Crown Entity	– Kiwirail
	Requested a provision for Iwi/Māori to help make decisions on qualifying matters	Iwi/ Māori organisation	– Ngāti Tamaterā Treaty Settlement Trust – Waikato- Tainui – Te Arawa Lakes Trust
	Noted support for the use of qualifying matters	Council	– Christchurch City Council – Hutt City Council
		Iwi/ Māori organisation	– Te Arawa Lakes Trust
	Expressed concern about evidence required to justify qualifying matters – concerned about timeframes	Council	– Tauranga City Council
	Requested additional qualifying matters	Council	– Bay of Plenty Regional Council – Wellington City Council
		Crown Entity	– Transpower – Heritage New Zealand Pouhere Taonga
		Iwi/ Māori organisation	– The Waikato River Authority – Waikato- Tainui

			– Ngaati Whanaunga Incorporated Society
	Requested that councils should be able to apply site-specific controls to manage consequences of growth (ie environment)	Council	– Futureproof councils
	Requested that district wide provisions in existing district plans that deal with relevant qualifying matters can apply as qualifying matters.	Council	– Kāpiti Coast District Council
	Requested that Te Ture Whaimana is added as a qualifying matter	Council	– Futureproof councils
		Iwi/ Māori organisation	– Waikato River Authority
	Requested an application of qualifying matters and discretion to be "more permissive" than NPS-UD currently requires	Council	– Hutt City Council
	Requested for s71 to be amended to allow for area and city-wide analysis rather than site-by-site	Council	– Tauranga City Council
	Requested amendment to include higher-order documents such as RPS	Council	– Tauranga City Council
	Requested clarity to be provided in the Bill on 'significant risk'	Council	– Tauranga City Council
	Expressed concern that the scope of qualifying matters is not clear, particularly for natural hazards	Crown Entity	– The Earthquake Commission
	Expressed concern that councils may not adequately identify and respond to natural hazards and sought guidance and national direction on managing natural hazard and climate change risks for local government	Crown Entity	– The Earthquake Commission
	Expressed concern that the National Grid may not be identified as a qualifying matter by relevant territorial authorities	Crown Entity	– Transpower
Immediate legal effect	Expressed concern about the impact on qualifying matters	Crown Entity	– Heritage New Zealand Pouhere Taonga
	Expressed concern about the impact on patterns of development	Council	– Upper Hutt City Council
	Requested an MDRS design guide for councils to consider	Council	– Wellington City Council

	Requested clarity on which clauses legal effect applies to	Council	– Selwyn District Council
	Requested that the August 2022 deadline be extended where a council has been unable to complete natural hazard assessments	Crown Entity	– The Earthquake Commission
	Requested that the MDRS should not be made operative at notification	Council	– Auckland Council

Other Key Themes



Transitional Provisions

Submission	Submitter Type	Submitters
Requested that the Bill be amended so that the withdrawal of plan changes is not required, but a process included that enables plan changes to be automatically updated to incorporate the MDRS	Council	- Christchurch City Council - Porirua City Council - Selwyn District Council - Tauranga City Council - Auckland Council
Requested that councils who have recently completed plan changes be able to delay the application of the MDRS	Council	- Whangārei District Council - Hutt City Council - Porirua City Council - Tauranga City Council
Expressed concern that capacity will be reduced in the short term where plan changes are withdrawn	Council	- Selwyn District Council - Hamilton City Council - Tauranga City Council
Requested to extend the February 2022 deadline for an Order in Council to include a tier 2 council	Iwi/ Māori organisation	- Ngāti Tamaterā Treaty Settlement Trust - Ngāti Whātua o Ōrākei
Expressed concern that some councils are already working through existing and lengthy plan changes	Council	- Hutt City Council - Selwyn District Council - Hamilton City Council
Expressed concern that the current provisions do not align with the broader intent of the Bill to enable housing supply	Council	- Selwyn District Council
Requested that the Bill be amended to allow the Minister to consider proposed plan changes for new residential zones that have undergone extensive consultation to have immediate effect	Council	- Western Bay of Plenty District Council
Expressed concern that the bill does not provide a pathway to notify an IPI using an ISPP and integrating it into a conventional Schedule 1 district plan	Council	- Porirua City Council

Climate Change

Submission	Submitter Type	Submitters
Expressed concern that the Bill will make adaptation to climate change more difficult	Councils	– Nelson City Council – Kāpiti Coast District Council – Futureproof councils
	Iwi/ Māori organisation	– Te Arawa Lakes Trust
Expressed concern that the Bill will make emissions worse	Council	– Hutt City Council – Wellington City Council
	Iwi/ Māori Organisation	– Ngāti Whātua o Ōrākei – Ngaati Whanaunga Incorporated Society
Expressed concern that the Bill will have implications for existing sustainable transport/land use integration efforts	Council	– Dunedin City Council – Hutt City Council – Tauranga City Council
Requested a minimum landscaping standard for residential developments to mitigate the effects of climate change through tree canopy	Council	– Christchurch City Council
Expressed concern that many hazard events that will be exasperated overtime due to climate change (e.g. flooding) have not been accounted for in this bill.	Council	– Waikato Regional Council
	Iwi/Māori organisation	– Waikato-Tainui

Infrastructure

Submission	Submitter Type	Submitters
Noted that the Bill is unlikely to increase total infrastructure costs in the long term	Crown Entity	- New Zealand Infrastructure Commission/ Te Waihanga
Expressed concern that the application of MDRS to all residential areas will lead to an inability to plan for infrastructure efficiently.	Councils	– Dunedin City Council – Whangārei District Council – Upper Hutt City Council – Kāpiti Coast District Council – Christchurch City Council – Hutt City Council

		– Wellington City Council – Futureproof councils – Tauranga City Council – Queenstown Lakes District Council – Rotorua Lakes Council – Hamilton City Council – Tasman District Council – Palmerston North City Council – Waikato Regional Council – Auckland Council
	Council Controlled Organisations	– Wellington Water
	Crown Entity	– Kiwirail – New Zealand Infrastructure Commission/ Te Waihanga
	Iwi	– Ngāti Whātua o Ōrākei – Waikato- Tainui – Te Tatau o Te Arawa
Expressed concern that infrastructure will need to increase to meet higher development capacity that may not yet be realised	Council	– Hamilton City Council – Palmerston North City Council
Expressed concern that development following the adoption of the MDRS will occur in an ad-hoc manner, making it difficult to plan for supporting infrastructure.	Council	– New Plymouth District Council – Upper Hutt City Council – Christchurch City Council – Futureproof councils – Queenstown Lakes District Council – Tauranga City Council – Hamilton City Council – Waimakariri District Council – Kāpiti Coast District Council
	Council Controlled Organisation	– Wellington Water

Expressed concern that regional councils will not be able to strategically integrate infrastructure with land use as required by the RMA, as only territorial authorities are mentioned in the Bill	Council	– Dunedin City Council
Sought clarification of how regional council consenting will work under the Bill	Council	– Tasman District Council
Expressed concern that this will worsen councils' financial positions	Council	– Dunedin City Council – Hutt City Council – Futureproof councils – Tauranga City Council – Hamilton City Council – Palmerston North City Council – Auckland Council
Expressed concern that this reduces ability to discuss infrastructure requirements with developers	Council	– Queenstown Lakes District Council
Expressed concern about negative environmental outcomes if infrastructure networks are overloaded	Council	– New Plymouth District Council – Nelson City Council – Tasman District Council – Waikato Regional Council
	Iwi/ Māori Organisation	– Waikato-Tainui – Ngāti Whātua o Ōrākei – Te Arawa Lakes Trust
Expressed concern the Bill will exacerbate pre-existing infrastructure concerns	Council	– Wellington City Council – Hamilton City Council – Auckland Council
	Iwi/ Māori Organisation	– Te Arawa Lakes Trust
Requested to amend the bill to make specific reference to infrastructure capacity	Council	– Dunedin City Council
Requested for the Bill to take into to account unreticulated areas that may not be zoned ‘large lot residential’	Council	– Dunedin City Council
Requested that the application of the MDRS to be tied to infrastructure servicing levels	Council	– Futureproof councils – Hamilton City Council – Auckland Council

Expressed concern that the "blunt" application of the MDRS will mean there will be development with limited infrastructure attached	Council	– Tasman District Council
Requested that to give councils the ability to exclude areas from the MDRS that do not have sufficient infrastructure	Council	– Tasman District Council – Greater Christchurch Partnership

Financial Contributions

Submission	Submitter Type	Submitters
Requested that financial contributions have immediate legal effect alongside the MDRS adopted plans (August 2022)	Council	– Christchurch City Council – Selwyn District Council – Waimakariri District Council – Hamilton District Council – Waimakariri District Council – Upper Hutt City Council – Greater Christchurch Partnership
Sought clarification that financial contributions can be used for permitted activities by all tier 1, 2 and 3 authorities	Council	– Gisborne District Council
Noted support for enabling financial contribution to be required for permitted activities	Council	– Christchurch City Council – Tasman District Council
Noted support for being able to amend financial contribution provisions through the ISPP	Council	– Christchurch City Council
Sought clarity about how financial contributions would work in practice	Council	– Auckland Council

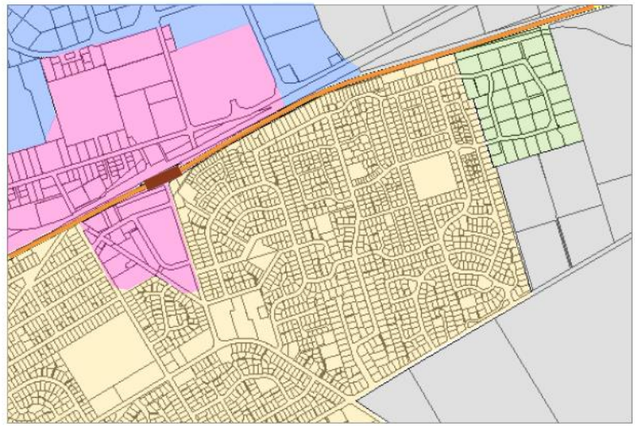
Amendments to the National Policy Statement on Urban Development (NPS-UD)

Subtheme	Submission	Submitter Type	Submitters
Updates to Policy 3(d)	Broadly supportive of the changes to policy 3(d)	Council	- Wellington City Council - Christchurch City Council
	Requested that Government retain the concept of the level of accessibility by existing or planned active or	Council	- Bay of Plenty Regional Council

	public transport to a range of commercial activities and community services under Policy 3(d)		
	Requested to amend policy 3(d) further by distinguishing town centers and local centers	Council	- Auckland Council
	Expressed concern that if the work the council had already done in relation to which areas policy 3(d) would apply, it would be challenged if they still enabled current capacity in as many areas as they were going to under the current policy	Council	- Hutt City Council
NPS-UD Implementation	Expressed concern about including 'neighbourhood centres' that might not have the appropriate levels of commercial activity and community services	Council	- Christchurch City Council - Tauranga City Council - Auckland Council
	Expressed concern with the ambiguity of the term 'adjacent' and not enabling intensification around public transport	Council	- Queenstown Lakes District Council - Hamilton City Council - Tauranga City Council
	Requested Government to take this opportunity to enable additional density in Policy 3 areas	Council	- Wellington City Council
	Requested the scope of the IPI in section 80G be expanded to include full implementation of the NPS-UD	Council	- Porirua City Council
	Highlighted the significant NPS-UD implementation work already undertaken	Council	- Tasman District Council
	Requested clarification on the definition of rapid transit and walkable catchments	Council	- Wellington City Council -
	Sought clarity on whether tier 3 local authorities are required to give effect to regulations under Policy 5 of NPS-UD	Council	- Taupō District Council
	Does not support the inclusion of tier 3 local authorities when considering changes to the Bill	Council	- Taupō District Council
	Add that a territorial authority can also use a qualifying matter to modify the requirements of the NPSUD	Council	- Hutt City Council

Appendix 2: Tier 1 council – MDRS and NPSUD diagram to explain immediate legal effect

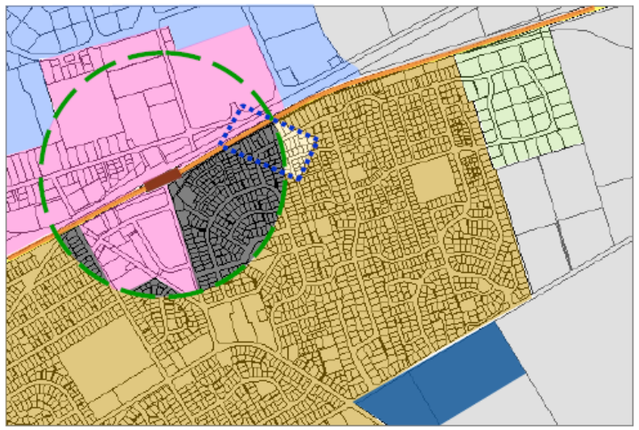
Existing



Key

- Rapid transit line
- Rapid transit stop
- Large lot residential zone (2 storey)
- Residential zone (2 storey)
- Town centre zone (2 storey)
- Industrial zone
- Rural zone

Notified



Key

Existing | Notified

- Rapid transit line
- Rapid transit stop
- Large lot residential zone (2 storey)
- Residential zone (2 storey) + MDRS 3 storey
- Residential zone (MDRS 3 storey) IMMEDIATE LEGAL EFFECT
- Residential zone (2 storey) + NPS policy 3c at least 6 storey
- Town centre zone (2 storey) + NPS policy 3c at least 6 storey
- Industrial zone
- Rural zone
- Rural zone + New residential zone
- NPS walkable catchment area
- Proposed qualifying matter i.e. natural hazard

Where the MDRS applies:

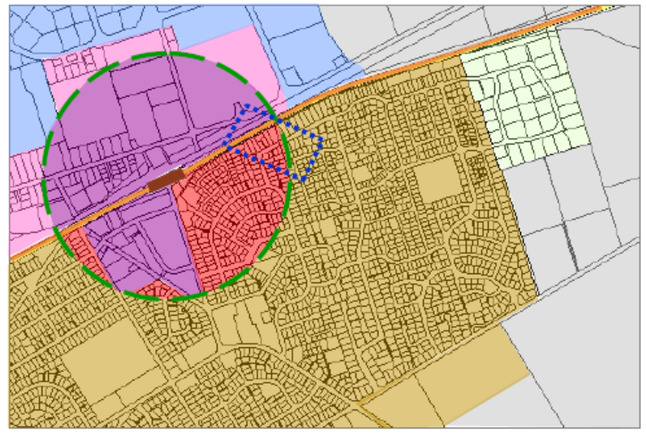
The MDRS applies in all existing and new residential zones, except large lot residential and settlement zones. Where NPS policy 3c and 3d apply, the MDRS must be incorporated as the minimum level of permitted development.

Immediate legal effect:

All MDRS objectives, policies and standards will have immediate legal effect, except within areas where councils have identified qualifying matters and in new residential zones. In cases where individuals standards are made more enabling, that standard will not have ILE. Subdivision standards will not have immediate legal effect.

In excepted cases, the existing plan provisions continue to have legal effect but the relevant component of the plan change as notified will need to be considered by councils when processing resource consents.

Decision – all provisions operative



Key

- Rapid transit line
- Rapid transit stop
- Large lot residential zone (2 storey)
- Residential zone (MDRS 3 storey)
- Residential zone (NPS policy 3c at least 6 storey)
- Town centre zone (NPS policy 3d)
- Town centre zone (NPS policy 3c at least 6 storey)
- Industrial zone
- Rural zone
- NPS walkable catchment area
- Natural hazard overlay or area subject to different zoning requirements

Appendix 3: Evidence required for historic heritage and special character