Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021

Public Act	2021 No 59
Date of assent	20 December 2021
Commencement	see section 2

Contents

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Resource Management Act 1991.

Part 1
Urban intensification policies and other matters

Subpart 1—Interpretation and definitions

4 Section 2 amended (Interpretation)

In section 2(1), insert in their appropriate alphabetical order:

equivalent zone means the zone in a district plan that is the nearest equivalent zone to the zone described in standard 8 (zone framework standard) of the national planning standards that would apply if those standards had been implemented

intensification planning instrument or **IPI** has the meaning set out in section 80E(1)

intensification streamlined planning process or **ISPP** means the planning process set out in subpart 5A of Part 5 and Part 6 of Schedule 1

large lot residential zone means a zone listed as a large lot residential zone and described in standard 8 (zone framework standard) of the national planning standards (within the meaning of section 77F), or an equivalent zone

medium density residential standards or **MDRS** means the requirements, conditions, and permissions set out in Schedule 3A

National Policy Statement on Urban Development or **NPS-UD** means the National Policy Statement on Urban Development 2020—

(a) that was approved by the Governor-General under section 52(2) on 20 July 2020 and that came into effect on 20 August 2020; and

(b) as amended by section 77S(1)

new residential zone means an area proposed to become a relevant residential zone that is not shown in a district plan as a residential zone

policy 3 means policy 3 in clause 2.2 of the NPS-UD, the text of which is set out in Schedule 3B

policy 4 means policy 4 in clause 2.2 of the NPS-UD, the text of which is set out in Schedule 3B

policy 5 means policy 5 in clause 2.2 of the NPS-UD, the text of which is set out in Schedule 3B

qualifying matter means a matter referred to in section 77I or 77O

relevant residential zone—

(a) means all residential zones; but

(b) does not include—

(i) a large lot residential zone:

(ii) an area predominantly urban in character that the 2018 census recorded as having a resident population of less than 5,000, unless a local authority intends the area to become part of an urban environment:

(iii) an offshore island:

(iv) to avoid doubt, a settlement zone

residential unit—

(a) means a building or part of a building that is used for a residential activity exclusively by 1 household; and

(b) includes sleeping, cooking, bathing, and toilet facilities

residential zone means all residential zones listed and described in standard 8 (zone framework standard) of the national planning standard or an equivalent zone

settlement zone means a zone listed as a settlement zone and described in standard 8 (zone framework standard) of the national planning standards (within the meaning of section 77F), or an equivalent zone

specified territorial authority means any of the following:

(a) every tier 1 territorial authority:

(b) a tier 2 territorial authority that is required by regulations made under section 80I(1) to prepare and notify an IPI:

(c) a tier 3 territorial authority that is required by regulations made under section 80K(1) to prepare and notify an IPI

tier 1 territorial authority means any of the following:

(a) Auckland Council:

(b) Christchurch City Council:

(c) Hamilton City Council:

(d) Hutt City Council:

(e) Kapiti Coast District Council:

(f) Porirua City Council:

(g) Selwyn District Council:

(h) Tauranga City Council:

(i) Upper Hutt City Council:

(j) Waikato District Council:

(k) Waimakariri District Council:

(l) Waipa District Council:

(m) Wellington City Council:

(n) Western Bay of Plenty District Council

tier 2 territorial authority means any of the following:

(a) Dunedin City Council:

(b) Hastings District Council:

(c) Napier City Council:

(d) Nelson City Council:

(e) New Plymouth District Council:

(f) Palmerston North City Council:

(g) Queenstown–Lakes District Council:

(h) Rotorua District Council:

(i) Tasman District Council:

(j) Whangarei District Council

tier 3 territorial authority means a territorial authority that has all or part of an urban environment within its district but is not a tier 1 or tier 2 territorial authority

5 Section 43AA amended (Interpretation)

In section 43AA, replace the definition of **change** with:

change means—

(a) a change proposed by a local authority to a policy statement or plan under clause 2 of Schedule 1, including an IPI notified in accordance with section 80F(1) or (2); and

(b) a change proposed by any person to a policy statement or plan by a request under clause 21 of Schedule 1

6 Section 43AAC amended (Meaning of proposed plan)

Replace section 43AAC(1)(b) with:

(b) includes—

(i) a proposed plan or a change to a plan proposed by a person under Part 2 of Schedule 1 that has been adopted by the local authority under clause 25(2)(a) of Schedule 1:

(ii) an IPI notified in accordance with section 80F(1) or (2).

Subpart 2—Specified territorial authority must incorporate medium density residential standards and intensification policies into district plan

7 Section 53 amended (Changes to or review or revocation of national policy statements)

Replace section 53(2) with:

(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:

(b) amend the NPS-UD in accordance with section 77S(2).

8 New section 77E inserted (Local authority may make rule about financial contributions)

After section 77D, insert:

77E Local authority may make rule about financial contributions

(1) A local authority may make a rule requiring a financial contribution for any class of activity other than a prohibited activity.

(2) A rule requiring a financial contribution must specify in the relevant plan or proposed plan—

(a) the purpose for which the financial contribution is required (which may include the purpose of ensuring positive effects on the environment to offset any adverse effect); and

(b) how the level of the financial contribution will be determined; and

(c) when the financial contribution will be required.

(3) To avoid doubt, if a rule requiring a financial contribution is incorporated into a specified territorial authority's district plan under section 77G, the rule does not have immediate legal effect under section 86B when an IPI incorporating the standard is notified.

(4) In this section and section 77T, **financial contribution** has the same meaning as in section 108(9).

9 New sections 77F to 77T and cross-headings inserted

After section 77E, insert:

Interpretation of sections 77F to 77T and Schedule 3A

77F Interpretation

In this section, sections 77G to 77T, and Schedule 3A,—

national planning standards means the national planning standards published by the Ministry for the Environment in November 2019 and available on an Internet site maintained by that ministry

urban environment means any area of land (regardless of size, and irrespective of territorial authority or statistical boundaries) that—

(a) is, or is intended by the specified territorial authority to be, predominantly urban in character; and

(b) is, or is intended by the specified territorial authority to be, part of a housing and labour market of at least 10,000 people

urban non-residential zone means any zone in an urban environment that is not a residential zone.

Intensification requirements in residential zones

77G Duty of specified territorial authorities to incorporate MDRS and give effect to policy 3 or 5 in residential zones

(1) Every relevant residential zone of a specified territorial authority must have the MDRS incorporated into that zone.

(2) Every residential zone in an urban environment of a specified territorial authority must give effect to policy 3 or policy 5, as the case requires, in that zone.

(3) When changing its district plan for the first time to incorporate the MDRS and to give effect to policy 3 or policy 5, as the case requires, and to meet its obligations in section 80F, a specified territorial authority must use an IPI and the ISPP.

(4) In carrying out its functions under this section, a specified territorial authority may create new residential zones or amend existing residential zones.

(5) A specified territorial authority—

(a) must include the objectives and policies set out in clause 6 of Schedule 3A:

(b) may include objectives and policies in addition to those set out in clause 6 of Schedule 3A, to—

(i) provide for matters of discretion to support the MDRS; and

(ii) link to the incorporated density standards to reflect how the territorial authority has chosen to modify the MDRS in accordance with section 77H.

(6) A specified territorial authority may make the requirements set out in Schedule 3A or policy 3 less enabling of development than provided for in that schedule or by policy 3, if authorised to do so under section 77I.

(7) To avoid doubt, existing provisions in a district plan that allow the same or a greater level of development than the MDRS do not need to be amended or removed from the district plan.

(8) The requirement in subsection (1) to incorporate the MDRS into a relevant residential zone applies irrespective of any inconsistent objective or policy in a regional policy statement.

77H Requirements in Schedule 3A may be modified to enable greater development

(1) In addition to giving effect to policy 3 or policy 5, a specified territorial authority may enable a greater level of development than provided for by the MDRS by—

(a) omitting 1 or more of the density standards set out in Part 2 of Schedule 3A:

(b) including rules that regulate the same effect as a density standard set out in Part 2 of Schedule 3A, but that are more lenient than provided for by the MDRS.

(2) To avoid doubt, **more lenient** means the rule (including a requirement, condition, or permission) permits an activity that the MDRS would restrict.

(3) A specified territorial authority is considered to have met its obligations under section 77G(1) by acting in accordance with subsection (1) of this section.

(4) A specified territorial authority may choose not to incorporate 1 or more density standards set out in Part 2 of Schedule 3A into its district plan, but, in that case, the authority may not (in its district plan) regulate the same effect as the density standard.

(5) To avoid doubt, if a density standard is incorporated into a specified territorial authority's district plan under subsection (1), the density standard does not have immediate legal effect under section 86B when an IPI incorporating the density standard is notified.

77I Qualifying matters in applying medium density residential standards and policy 3 to relevant residential zones

A specified territorial authority may make the MDRS and the relevant building height or density requirements under policy 3 less enabling of development in relation to an area within a relevant residential zone only to the extent necessary to accommodate 1 or more of the following qualifying matters that are present:

(a) a matter of national importance that decision makers are required to recognise and provide for under section 6:

(b) a matter required in order to give effect to a national policy statement (other than the NPS-UD) or the New Zealand Coastal Policy Statement 2010:

(c) a matter required to give effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River:

(d) a matter required to give effect to the Hauraki Gulf Marine Park Act 2000 or the Waitakere Ranges Heritage Area Act 2008:

(e) a matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure:

(f) open space provided for public use, but only in relation to land that is open space:

(g) the need to give effect to a designation or heritage order, but only in relation to land that is subject to the designation or heritage order:

(h) a matter necessary to implement, or to ensure consistency with, iwi participation legislation:

(i) the requirement in the NPS-UD to provide sufficient business land suitable for low density uses to meet expected demand:

(j) any other matter that makes higher density, as provided for by the MDRS or policy 3, inappropriate in an area, but only if section 77L is satisfied.

77J Requirements in relation to evaluation report

(1) This section applies if a territorial authority is amending its district plan (as provided for in section 77G).

(2) The evaluation report from the specified territorial authority referred to in section 32 must, in addition to the matters in that section, consider the matters in subsections (3) and (4).

(3) The evaluation report must, in relation to the proposed amendment to accommodate a qualifying matter,—

(a) demonstrate why the territorial authority considers—

(i) that the area is subject to a qualifying matter; and

(ii) that the qualifying matter is incompatible with the level of development permitted by the MDRS (as specified in Schedule 3A) or as provided for by policy 3 for that area; and

(b) assess the impact that limiting development capacity, building height, or density (as relevant) will have on the provision of development capacity; and

(c) assess the costs and broader impacts of imposing those limits.

(4) The evaluation report must include, in relation to the provisions implementing the MDRS,—

(a) a description of how the provisions of the district plan allow the same or a greater level of development than the MDRS:

(b) a description of how modifications to the MDRS as applied to the relevant residential zones are limited to only those modifications necessary to accommodate qualifying matters and, in particular, how they apply to any spatial layers relating to overlays, precincts, specific controls, and development areas, including—

(i) any operative district plan spatial layers; and

(ii) any new spatial layers proposed for the district plan.

(5) The requirements set out in subsection (3)(a) apply only in the area for which the territorial authority is proposing to make an allowance for a qualifying matter.

(6) The evaluation report may for the purposes of subsection (4) describe any modifications to the requirements of section 32 necessary to achieve the development objectives of the MDRS.

77K Alternative process for existing qualifying matters

(1) A specified territorial authority may, when considering existing qualifying matters, instead of undertaking the evaluation process described in section 77J, do all the following things:

(a) identify by location (for example, by mapping) where an existing qualifying matter applies:

(b) specify the alternative density standards proposed for those areas identified under paragraph (a):

(c) identify in the report prepared under section 32 why the territorial authority considers that 1 or more existing qualifying matters apply to those areas identified under paragraph (a):

(d) describe in general terms for a typical site in those areas identified under paragraph (a) the level of development that would be prevented by accommodating the qualifying matter, in comparison with the level of development that would have been permitted by the MDRS and policy 3:

(e) notify the existing qualifying matters in the IPI.

(2) To avoid doubt, existing qualifying matters included in the IPI—

(a) do not have immediate legal effect on notification of the IPI; but

(b) continue to have effect as part of the operative plan.

(3) In this section, an **existing qualifying matter** is a qualifying matter referred to in section 77I(a) to (i) that is operative in the relevant district plan when the IPI is notified.

77L Further requirement about application of section 77I(j)

A matter is not a qualifying matter under section 77I(j) in relation to an area unless the evaluation report referred to in section 32 also—

(a) identifies the specific characteristic that makes the level of development provided by the MDRS (as specified in Schedule 3A or as provided for by policy 3) inappropriate in the area; and

(b) justifies why that characteristic makes that level of development inappropriate in light of the national significance of urban development and the objectives of the NPS-UD; and

(c) includes a site-specific analysis that—

(i) identifies the site to which the matter relates; and

(ii) evaluates the specific characteristic on a site-specific basis to determine the geographic area where intensification needs to be compatible with the specific matter; and

(iii) evaluates an appropriate range of options to achieve the greatest heights and densities permitted by the MDRS (as specified in Schedule 3A) or as provided for by policy 3 while managing the specific characteristics.

77M Effect of incorporation of MDRS in district plan on new applications for resource consents and on some existing designations

(1) This section applies in relation to the consideration by a consent authority of an application made under section 88 for a resource consent (a **new application**)—

(a) for an activity to which the MDRS are proposed to apply in an area in a relevant residential zone; and

(b) that is lodged on or after the date on which a specified territorial authority notifies its IPI incorporating the MDRS in its district plan in accordance with section 80F(1) or (2), as applicable.

(2) 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 IPI) cease to have effect in relation to the consideration of the new application; and

(b) the objectives and policies set out in clause 6 of Schedule 3A and proposed in the IPI to be included in the district plan in accordance with section 77G(5)(a) apply in determining that new application.

(3) Subsection (2)(a) applies to the extent that the provisions referred to are inconsistent with the objectives and policies—

(a) set out in clause 6 of Schedule 3A; and

(b) proposed in the IPI to be included in the district plan in accordance with section 77G(5)(a).

(4) This section does not apply in relation to any area or site that—

(a) is a qualifying matter area (within the meaning of section 86BA(7)); or

(b) is in a new residential zone notified in the IPI.

(5) Subsection (6) applies if a designation for which the Minister of Education is the requiring authority—

(a) is included in the specified territorial authority's district plan; and

(b) the designation applies to land that—

(i) is in a relevant residential zone; or

(ii) adjoins a relevant residential zone.

(6) Works undertaken under a designation of the kind referred to in subsection (5) may rely on the provisions of the relevant residential zone that incorporate the density standards in Part 2 of Schedule 3A if those provisions are more lenient than conditions included in the designation.

(7) Any objectives or policies of a regional policy statement or proposed regional policy statement do not apply to the consent authority's consideration of the new application to the extent that they are inconsistent with the objectives and policies in clause 6 of Schedule 3A as notified in the IPI.

(8) This section does not affect the operation of subpart 7 of Part 5.

(9) To avoid doubt, the MDRS are irrelevant to the consideration of a new application unless and until the MDRS are notified in the relevant IPI.

Intensification requirements in non-residential zones

77N Duty of specified territorial authorities to give effect to policy 3 or policy 5 in non-residential zones

(1) When changing its district plan for the first time to give effect to policy 3 or policy 5, and to meet its obligations under section 80F, a specified territorial authority must use an IPI and the ISPP.

(2) In carrying out its functions under subsection (1), the territorial authority must ensure that the provisions in its district plan for each urban non-residential zone within the authority's urban environment give effect to the changes required by policy 3 or policy 5, as the case requires.

(3) In carrying out its functions under subsection (1), a specified territorial authority—

(a) may create new urban non-residential zones or amend existing urban non-residential zones:

(b) may modify the requirements set out in policy 3 to be less enabling of development than provided for by policy 3, if authorised to do so under section 77O.

77O Qualifying matters in application of intensification policies to urban non-residential areas

A specified territorial authority may modify the requirements of policy 3 in an urban non-residential zone to be less enabling of development than provided in those policies only to the extent necessary to accommodate 1 or more of the following qualifying matters that are present:

(a) a matter of national importance that decision makers are required to recognise and provide for under section 6:

(b) a matter required in order to give effect to a national policy statement (other than the NPS-UD) or the New Zealand Coastal Policy Statement 2010:

(c) a matter required to give effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River:

(d) a matter required to give effect to the Hauraki Gulf Marine Park Act 2000 or the Waitakere Ranges Heritage Area Act 2008:

(e) a matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure:

(f) open space provided for public use, but only in relation to land that is open space:

(g) the need to give effect to a designation or heritage order, but only in relation to land that is subject to the designation or heritage order:

(h) a matter necessary to implement, or to ensure consistency with, iwi participation legislation:

(i) the requirement in the NPS-UD to provide sufficient business land suitable for low density uses to meet expected demand:

(j) any other matter that makes higher density development as provided for by policy 3, as the case requires, inappropriate in an area, but only if section 77R is satisfied.

77P Requirements governing application of section 77O

(1) This section applies if a specified territorial authority is amending its district plan (as required by section 77N) and proposes to accommodate a qualifying matter.

(2) The evaluation report from the specified territorial authority referred to in section 32 must, in addition to the matters in that section, consider the matters in subsection (3).

(3) The evaluation report must, in relation to the proposed amendment to accommodate a qualifying matter,—

(a) in the area for which the territorial authority is proposing to make an allowance for a qualifying matter, demonstrate why the territorial authority considers—

(i) that the area is subject to a qualifying matter; and

(ii) that the qualifying matter is incompatible with the level of development provided for by policy 3 for that area; and

(b) assess the impact that limiting development capacity, building height, or density (as relevant) will have on the provision of development capacity; and

(c) assess the costs and broader impacts of imposing those limits.

77Q Alternative process for existing qualifying matters

(1) A specified territorial authority may, when considering existing qualifying matters, instead of undertaking the evaluation process described in section 77P, do all the following things:

(a) identify by location (for example, by mapping) where an existing qualifying matter applies:

(b) specify the alternative density standards proposed for the area or areas identified under paragraph (a):

(c) identify in the report prepared under section 32 why the territorial authority considers that 1 or more existing qualifying matters apply to the area or areas identified under paragraph (a):

(d) describe in general terms for typical sites in those areas identified under paragraph (a) the level of development that would be prevented by accommodating the qualifying matter, in comparison with the level of development that would have been enabled by policy 3:

(e) notify the existing qualifying matters in the IPI.

(2) To avoid doubt, existing qualifying matters included in the IPI—

(a) do not have immediate legal effect on notification of the IPI; but

(b) continue to have effect as part of the operative plan.

(3) In this section, an **existing qualifying matter** is a qualifying matter referred to in section 77O(a) to (i) that is operative in the relevant district plan when the IPI is notified.

77R Further requirements about application of section 77O(j)

A matter is not a qualifying matter under section 77O(j) in relation to an area unless the evaluation report referred to in section 32 also—

(a) identifies the specific characteristic that makes the level of urban development required within the relevant paragraph of policy 3 inappropriate; and

(b) justifies why that characteristic makes that level of urban development inappropriate in light of the national significance of urban development and the objectives of the NPS-UD; and

(c) includes a site-specific analysis that—

(i) identifies the site to which the matter relates; and

(ii) evaluates the specific characteristic on a site-specific basis to determine the geographic area where intensification needs to be compatible with the specific matter; and

(iii) evaluates an appropriate range of options to achieve the greatest heights and densities provided for by policy 3 while managing the specific characteristics.

Amendment of NPS-UD

77S Amendment of NPS-UD

(1) Policy 3 in the NPS-UD is amended by,—

(a) in paragraph (c), after "building heights of", inserting "at"; and

(b) replacing paragraph (d) with:

"(d) within and adjacent to neighbourhood centre zones, local centre zones, and town centre zones (or equivalent), building heights and density of urban form commensurate with the level of commercial activity and community services."

(2) The Minister for the Environment, after consulting the Minister of Housing, may amend the NPS-UD to make any changes that the Minister for the Environment is satisfied are required as a result of the enactment of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 to—

(a) remove an inconsistency or a potential inconsistency between the NPS-UD and that Act; or

(b) amend or replace the definition of planning decision in the NPS-UD; or

(c) otherwise clarify the interrelationship between the NPS-UD and that Act.

Financial contributions

77T Review of financial contributions provisions

Each specified territorial authority may, if it considers it appropriate to do so, include financial contributions provisions, or change its financial contributions

provisions (as applicable) in the district plan, and, if it does so, may notify them in the IPI required to be notified in accordance with section 80F.

Subpart 3—Specified territorial authority must notify intensification planning instrument

10 New subpart 5A of Part 5 inserted

After section 80C, insert:

Subpart 5A—Intensification planning instruments and intensification streamlined planning process

80D What this subpart and Part 6 of Schedule 1 do

This subpart and Part 6 of Schedule 1 provide a process for the preparation of an IPI by a specified territorial authority in order to achieve an expeditious planning process.

Intensification planning instruments

80E Meaning of intensification planning instrument

(1) In this Act, **intensification planning instrument** or **IPI** means a change to a district plan or a variation to a proposed district plan—

(a) that must—

(i) incorporate the MDRS; and

(ii) give effect to,—

(A) in the case of a tier 1 territorial authority, policies 3 and 4 of the NPS-UD; or

(B) in the case of a tier 2 territorial authority to which regulations made under section 80I(1) apply, policy 5 of the NPS-UD; or

(C) in the case of a tier 3 territorial authority to which regulations made under section 80K(1) apply, policy 5 of the NPS-UD; and

(b) that may also amend or include the following provisions:

(i) provisions relating to financial contributions, if the specified territorial authority chooses to amend its district plan under section 77T:

(ii) provisions to enable papakāinga housing in the district:

(iii) related provisions, including objectives, policies, rules, standards, and zones, that support or are consequential on—

(A) the MDRS; or

(B) policies 3, 4, and 5 of the NPS-UD, as applicable.

(2) In subsection (1)(b)(iii), **related provisions** also includes provisions that relate to any of the following, without limitation:

(a) district-wide matters:

(b) earthworks:

(c) fencing:

(d) infrastructure:

(e) qualifying matters identified in accordance with section 77I or 77O:

(f) storm water management (including permeability and hydraulic neutrality):

(g) subdivision of land.

80F Specified territorial authority must notify IPI

(1) The following territorial authorities must notify an IPI on or before 20 August 2022:

(a) every tier 1 territorial authority:

(b) a tier 2 territorial authority to which regulations made before 21 March 2022 under section 80I(1) apply.

(2) The following territorial authorities must notify an IPI on or before the date specified in the applicable regulations:

(a) a tier 2 territorial authority to which regulations made on or after 21 March 2022 under section 80I(1) apply:

(b) a tier 3 territorial authority to which regulations made under section 80K(1) apply.

(3) A territorial authority to which subsection (1) or (2) applies must prepare the IPI—

(a) using the ISPP; and

(b) in accordance with—

(i) clause 95 of Schedule 1; and

(ii) any requirements specified by the Minister in a direction made under section 80L.

80G Limitations on IPIs and ISPP

IPIs

(1) A specified territorial authority must not do any of the following:

(a) notify more than 1 IPI:

(b) use the IPI for any purpose other than the uses specified in section 80E:

(c) withdraw the IPI.

ISPP

(2) A local authority must not use the ISPP except as permitted under section 80F(3).

80H IPI must show how MDRS are incorporated

(1) When a specified territorial authority notifies its IPI in accordance with section 80F(1) or (2), it must show in the instrument, for the purposes of sections 77M, 86B, and 86BA—

(a) which provisions incorporate—

(i) the density standards in Part 2 of Schedule 3A; and

(ii) the objectives and policies in clause 6 of Schedule 3A; and

(b) which provisions in the operative district plan and any proposed plan are replaced by—

(i) the density standards in Part 2 of Schedule 3A; and

(ii) the objectives and policies in clause 6 of Schedule 3A.

(2) The identification of a provision in an IPI as required in subsection (1)—

(a) does not form part of the IPI; and

(b) may be removed, without any further authority than this subsection, by the specified territorial authority once the IPI becomes operative.

Tier 2 territorial authorities

80I Regulations requiring tier 2 territorial authority to change district plan

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations requiring a tier 2 territorial authority to prepare and notify an IPI.

(2) An Order in Council made under subsection (1) on or after 21 March 2022 must specify the date by which the tier 2 territorial authority must notify the IPI.

(3) Before recommending the making of regulations under subsection (1), the Minister must—

(a) consult the Minister of Housing and the Minister for Māori Crown Relations—Te Arawhiti; and

(b) be satisfied that the district of the relevant tier 2 territorial authority is experiencing an acute housing need.

(4) The Minister, in determining whether a district is experiencing an acute housing need,—

(a) must have regard to the median multiple in that district (that is, the median house price divided by the median gross annual household income); and

(b) may have regard to any other information indicating that there is an acute housing need in the district.

(5) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Tier 3 territorial authorities

80J Tier 3 territorial authority may request regulations requiring territorial authority to change district plan

(1) A tier 3 territorial authority may request the Minister to recommend the making of regulations under section 80K(1) requiring that territorial authority to prepare and notify an IPI.

(2) The Minister may approve or decline the request.

(3) Before approving or declining the request, the Minister must—

(a) consult the Minister of Housing and the Minister for Māori Crown Relations—Te Arawhiti; and

(b) determine whether the district of the relevant tier 3 territorial authority is experiencing an acute housing need.

(4) The Minister, in determining whether a district is experiencing an acute housing need,—

(a) must have regard to the median multiple in that district (that is, the median house price divided by the median gross annual household income); and

(b) may have regard to any other information indicating that there is an acute housing need in the district.

80K Regulations requiring tier 3 territorial authority to change district plan

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations requiring a tier 3 territorial authority to prepare and notify an IPI.

(2) An Order in Council made under subsection (1) must specify the date by which the tier 3 territorial authority must notify the IPI.

(3) The Minister may recommend the making of regulations under subsection (1) only if—

(a) the Minister has received a request from a tier 3 territorial authority under section 80J(1); and

(b) the Minister is satisfied that the requirements specified in section 80J(3) have been met.

(4) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Ministerial direction

80L Minister may make direction

(1) The Minister may direct 1 or more specified territorial authorities in relation to the following requirements:

(a) the number of panel members that the specified territorial authority must appoint to an independent hearings panel established under clause 96(1)(a) of Schedule 1:

(b) the level of experience and qualifications that a person must meet before the specified territorial authority may appoint that person to an independent hearings panel:

(c) 1 or more periods of time within which the specified territorial authority must complete 1 or more stages of the ISPP:

(d) matters on which the specified territorial authority must report to the Minister.

(2) The direction may also include the Minister's statement of expectations for the specified territorial authority.

(3) In deciding the content of the direction, the Minister must have regard to section 80D.

(4) A direction made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 s 74(1)(aa)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

80M Amendment of direction

(1) The Minister may initiate an amendment of a direction made under section 80L.

(2) A specified territorial authority may request in writing that the Minister amend a direction made under section 80L that applies to that territorial authority, setting out the reasons for the request.

(3) The Minister may amend the direction as the Minister thinks appropriate.

(4) Unless an amendment made under this section has no more than a minor effect or is made to correct a technical error, section 80L(1), (2), and (3) applies.

(5) An amendment made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 s 74(1)(aa)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

80N Specified territorial authority must comply with direction

(1) A specified territorial authority—

(a) must comply with the terms of a direction made under section 80L (other than in respect of the Minister's statement of expectations included in the direction); but

(b) must have regard to that statement.

(2) The direction applies as from time to time amended in accordance with section 80M.

Subpart 4—When rules incorporating MDRS have legal effect

11 Section 86B amended (When rules in proposed plans have legal effect)

(1) In section 86B(1), replace "under clause 10(4) of Schedule 1" with "under clause 10(4), 102(1), or 106(1) of Schedule 1, as applicable".

(2) In section 86B(1)(a), after "subsection (3)", insert "or section 86BA".

(3) In section 86B(5), replace "subsection (3)" with "subsection (3) and section 86BA".

12 New section 86BA inserted (Immediate legal effect of rules in IPI prepared using ISPP)

After section 86B, insert:

86BA Immediate legal effect of rules in IPI prepared using ISPP

Immediate legal effect: general

(1) A rule in a proposed plan has immediate legal effect if the rule meets all of the following criteria:

(a) the rule is in an IPI prepared using the ISPP:

(b) the rule authorises as a permitted activity a residential unit in a relevant residential zone in accordance with the density standards set out in Part 2 of Schedule 3A:

(c) the rule does not apply to either of the following areas:

(i) a new residential zone:

(ii) a qualifying matter area.

(2) If a rule in a district plan (**rule A**) is inconsistent with a rule to which subsection (1) applies (**rule B**),—

(a) rule A ceases to have legal effect from the time at which rule B has immediate legal effect; and

(b) rule A is no longer to be treated as an operative provision of the district plan.

More lenient density standards

(3) Subsection (4) applies if a rule in a proposed plan—

(a) meets the criteria specified in subsection (1)(a) and (c); and

(b) would meet the criterion specified in subsection (1)(b) but for the fact that it includes a proposed density standard that—

(i) regulates the same effect as a density standard set out in Part 2 of Schedule 3A; and

(ii) is proposed, in accordance with section 77H(1)(b), to be more lenient than provided for by the MDRS.

(4) If this subsection applies,—

(a) the proposed density standard does not have immediate legal effect; but

(b) all other density standards referred to in subsection (1)(b) have immediate legal effect and subsection (2) applies to those standards as if they were rule B.

Omitted or additional density standards

(5) Subsection (6) applies if—

(a) the rule referred to in subsection (1)—

(i) omits, in accordance with section 77H(1)(a), a density standard set out in Part 2 of Schedule 3A; or

(ii) includes an additional requirement, condition, or permission regulating an effect other than those set out in Part 2 of Schedule 3A; and

(b) the omitted density standard, or the additional requirement, condition, or permission, regulates the same effect as a rule (including a density standard, requirement, condition, or permission) in the operative plan (the **operative rule**).

(6) If this subsection applies, the operative rule continues to have legal effect until the date on which the proposed plan becomes operative.

Interpretation

(7) In this section,

more lenient has the same meaning as in section 77H(2)

qualifying matter area means an area in respect of which the specified territorial authority has proposed, in accordance with section 77I, that a qualifying matter apply.

Subpart 5—Other amendments

13 Section 104 amended (Consideration of applications)

In section 104(1), after "Part 2", insert "and section 77M".

14 Section 224 amended (Restrictions upon deposit of survey plan)

In section 224, replace "section 11(1A)(b)(i)" with "section 11(1)(a)(i) or (iii)".

Part 2
Amendments to schedules and new schedules

Subpart 1—Intensification streamlined planning process

15 Part 2 of Schedule 1 amended

After clause 25(4), insert:

(4A) A specified territorial authority must not accept or adopt a request if it does not incorporate the MDRS as required by section 80F(1) or (2).

16 New Part 6 inserted into Schedule 1

In Schedule 1, after clause 94, insert:

Part 6
Intensification streamlined planning process

How specified territorial authority notifies intensification planning instrument

95 How specified territorial authority notifies intensification planning instrument

What specified territorial authority must do to notify intensification planning instrument

(1) A specified territorial authority must prepare, notify, and progress an IPI by following the relevant processes described in subclause (2).

Application of Part 1 of this schedule

(2) The following clauses of Part 1 of this schedule apply to the extent that they are relevant to a specified territorial authority:

- (a) clause 1A (which requires a proposed policy statement or plan to be prepared in accordance with any applicable Mana Whakahono a Rohe):
- (b) clause 1B (which relates to iwi participation legislation):
- (c) clause 2(1) (which requires a local authority to prepare a proposed policy statement or plan):
- (d) clause 3(1), (2), and (4) (which relates to consultation requirements):
- (e) clause 3B (which relates to consultation with iwi authorities):
- (f) clause 3C (which relates to previous consultation under other enactments):
- (g) clause 4A (which requires a local authority to fulfil certain pre-notification requirements concerning iwi authorities):
- (h) clause 5(1)(a) and (b)(i), (1A), (1B), (2), and (3) to (6) (which requires a local authority to publicly notify a proposed policy statement or plan that it has decided to proceed with):
- (i) clause 6 (which relates to who may make submissions on a publicly notified proposed policy statement or plan):
- (j) clause 7(1) and (2) (which requires a local authority to give public notice of certain matters relating to submissions):
- (k) clause 8(1) and (2) (which enables certain persons to make further submissions):
- (l) clause 8A (which relates to serving copies of further submissions made under clause 8):
- (m) clause 8AA (which enables a local authority to arrange a meeting with a person who has made a submission on a proposed policy statement or plan for the purpose of clarifying or facilitating the resolution of any matter relating to the statement or plan):

(n) clause 8B (which requires a local authority to hold a hearing into submissions on its proposed policy statement or plan):

(o) clause 16(2) (which enables a local authority to correct minor errors in a proposed policy statement or plan):

(p) clause 16A (which enables a local authority to initiate variations to a proposed policy statement or plan):

(q) clause 17 (which relates to when a local authority may approve a proposed policy statement or plan).

(3) In the clauses referred to in subclause (2),—

(a) references to a **local authority** are to be read as references to a specified territorial authority; and

(b) references to a **proposed policy statement or plan** are to be read as references to an IPI.

What specified territorial authority must do in respect of independent hearings panel

96 Specified territorial authority must establish independent hearings panel and delegate necessary functions

(1) A specified territorial authority must—

(a) establish an independent hearings panel to—

(i) conduct a hearing of submissions on the IPI once it has been notified by the specified territorial authority; and

(ii) make recommendations, after the hearing of submissions is concluded, to the specified territorial authority; and

(b) appoint 1 member of the panel to be the chairperson of the panel.

(2) Before establishing an independent hearings panel, the specified territorial authority must—

(a) consult tāngata whenua through relevant iwi authorities on whether it is appropriate to appoint a member of the panel with an understanding of tikanga Māori and of the perspectives of local iwi or hapū; and

(b) if tāngata whenua consider it appropriate, appoint at least 1 member of the panel with an understanding of tikanga Māori and the perspectives of local iwi or hapū, in consultation with relevant iwi authorities.

(3) The specified territorial authority must delegate the necessary functions to the independent hearings panel.

(4) In this clause, **necessary functions**—

(a) means the functions, powers, or duties that the independent hearings panel requires to carry out its role under subclause (1)(a); and

(b) includes the functions, powers, or duties that a local authority requires in order to hold a hearing under clause 8B; but

(c) does not include—

(i) the approval of a proposed policy statement or plan under clause 17:

(ii) this power of delegation.

97 Specified territorial authority must submit intensification planning instrument documents to independent hearings panel

A specified territorial authority must, as soon as is reasonably practicable, submit the following documents and information, as relevant, to the independent hearings panel that it has established under clause 96(1)(a):

(a) the IPI that was publicly notified:

(b) any variation made to the IPI under clause 16A:

(c) the specified territorial authority's evaluation report prepared under section 32:

(d) the submissions on the IPI received by the closing date for submissions:

(e) the specified territorial authority's summary of the decisions requested by submitters:

(f) further submissions on the IPI received by the closing date for further submissions:

(g) submissions received after the closing date for submissions or further submissions:

(h) information about when the submissions described in paragraph (g) were received:

(i) the planning documents that are recognised by an iwi authority and lodged with the specified territorial authority:

(j) documentation relevant to any obligations arising under any relevant iwi participation legislation, joint management agreement, or Mana Whakahono a Rohe:

(k) any other relevant information.

Powers of independent hearings panel and process for recommendations

98 Powers of independent hearings panel

(1) To the extent applicable, an independent hearings panel has the same duties and powers as a local authority under the following provisions:

(a) section 39 (which provides for how hearings are to be conducted), except section 39(2)(c) and (d):

(b) section 39AA (which enables a hearing to be conducted using remote access facilities):

(c) section 40 (which provides for the persons who may be heard at a hearing):

(d) section 41 (which provides for the application of certain provisions of the Commissions of Inquiry Act 1908):

(e) section 41A (which relates to the control of hearings):

(f) section 41B (which provides for the giving of directions as to the time for providing evidence in relation to a hearing):

(g) section 41C (which sets out the directions and requests that may be given before or at a hearing), except section 41C(4):

(h) section 41D (which provides for submissions to be struck out before or at a hearing):

(i) section 42 (which provides for the protection of sensitive information).

(2) If an independent hearings panel exercises a power under section 41D,—

(a) a person whose submission is struck out has a right of objection under section 357(2) as if the references in that subsection to an authority were references to an independent hearings panel; and

(b) sections 357C, 357D, and 358 apply to the independent hearings panel as the body to which an objection is made under section 357(2).

(3) An independent hearings panel may decide to accept or reject any late submission.

(4) At a hearing, an independent hearings panel may—

(a) permit a party to question another party or a witness:

(b) prohibit cross-examination:

(c) permit cross-examination at the request of a party, but only if the panel is satisfied that it is in the interests of justice:

(d) regulate the conduct of any cross-examination.

99 Independent hearings panel must make recommendations to territorial authority on intensification planning instrument

(1) An independent hearings panel must make recommendations to a specified territorial authority on the IPI.

(2) The recommendations made by the independent hearings panel—

(a) must be related to a matter identified by the panel or any other person during the hearing; but

(b) are not limited to being within the scope of submissions made on the IPI.

(3) An independent hearings panel, in formulating its recommendations, must be satisfied that, if the specified territorial authority were to accept the panel's rec-

ommendations, sections 85A and 85B(2) (which relate to the protection of protected customary rights) would be complied with.

100 How independent hearings panel must provide recommendations

(1) The independent hearings panel must provide its recommendations to a specified territorial authority in 1 or more written reports.

(2) Each report must—

(a) set out the panel's recommendations on the provisions of the IPI covered by the report; and

(b) identify any recommendations that are outside the scope of the submissions made in respect of those provisions; and

(c) set out the panel's recommendations on the matters raised in submissions made in respect of the provisions covered by the report; and

(d) state the panel's reasons for accepting or rejecting submissions; and

(e) include a further evaluation of the IPI undertaken in accordance with section 32AA (requirements for undertaking and publishing further evaluations).

(3) Each report may also include—

(a) matters relating to any alterations necessary to the IPI as a consequence of matters raised in submissions; and

(b) any other matter that the panel considers relevant to the IPI that arises from submissions or otherwise.

(4) In stating the panel's reasons for accepting or rejecting submissions in accordance with subclause (2)(d), each report may address the submissions by grouping them according to—

(a) the provisions of the IPI to which they relate; or

(b) the matters to which they relate.

(5) To avoid doubt, a panel is not required to make recommendations in a report that deal with each submission individually.

Decisions on independent panel's recommendations

101 Specified territorial authority to consider recommendations

(1) The specified territorial authority—

(a) must decide whether to accept or reject each recommendation of the independent hearings panel; and

(b) may provide an alternative recommendation for any recommendation that the authority rejects.

(2) The specified territorial authority must refer to the Minister—

(a) each rejected recommendation, together with the authority's reasons for rejecting the recommendation; and

(b) any alternative recommendation that the authority has provided under subclause (1)(b).

(3) The specified territorial authority must make decisions under subclause (1) in a manner that is consistent with any relevant iwi participation legislation, Mana Whakahono a Rohe, or joint management agreement.

(4) When making decisions under subclause (1), the specified territorial authority—

(a) is not, subject to subclause (2), required to consult any person or consider submissions or other evidence from any person; and

(b) must not consider any submission or other evidence unless it was made available to the independent hearings panel before the panel made the recommendation that is the subject of the specified territorial authority's decision; and

(c) may seek clarification from the independent hearings panel on a recommendation in order to assist the specified territorial authority to make a decision under subclause (1).

(5) To avoid doubt, the specified territorial authority may accept recommendations of the independent hearings panel that are beyond the scope of the submissions made on the IPI.

102 Notification of specified territorial authority's decisions

(1) The specified territorial authority must publicly notify its decisions made under clause 101(1) in a way that sets out the following information:

(a) each recommendation of the independent hearings panel that it accepts; and

(b) each recommendation of the independent hearings panel that it rejects and the reasons for doing so; and

(c) any alternative recommendation that it has provided for a rejected recommendation.

(2) Subclause (3) applies if the specified territorial authority decides that it wishes to accept a recommendation but alter the recommendation in a way that has a minor effect or to correct a minor error.

(3) The territorial authority may notify the recommendation as accepted, but only if, when complying with subclause (1)(a), it sets out the alterations to the recommendation.

(4) A recommendation to which subclause (2) applies must, for all purposes, be treated as a recommendation of the independent hearings panel accepted by the territorial authority.

(5) Not later than 5 working days after the specified territorial authority's decisions under subclause (1) are publicly notified, the authority must serve the public notice on every person who made a submission on the IPI.

(6) The specified territorial authority must also—

(a) make a copy of the public notice and the decisions under clause 101(1) publicly available—

(i) on an Internet site maintained by or on behalf of the territorial authority; and

(ii) in physical form at all of the territorial authority's offices and all public libraries in its district; and

(b) include with the notice a statement of the places where a copy of the decision is available; and

(c) send or provide, on request, a copy of the decision within 3 working days after the request is received.

103 What happens if specified territorial authority accepts all recommendations of independent hearings panel

(1) This clause applies if the specified territorial authority decides to accept all the recommendations of the independent hearings panel.

(2) On the notification under clause 102(1) of the specified territorial authority's decisions,—

(a) all the recommendations of the independent hearings panel are incorporated into the district plan that has been subject to the ISPP; and

(b) the plan (as altered by those recommendations)—

(i) is deemed to have been approved by the territorial authority under clause 17(1); and

(ii) becomes operative in accordance with clause 20.

104 What happens if specified territorial authority accepts some, or none, of recommendations of independent hearings panel

(1) Clause 105 applies if the specified territorial authority—

(a) decides to accept some, or none, of the recommendations of the independent hearings panel; and

(b) refers, under clause 101(2), 1 or more recommendations to the Minister.

(2) On the notification under clause 102(1) of the specified territorial authority's decisions,—

(a) all the recommendations of the independent hearings panel that were accepted by the specified territorial authority are incorporated into the district plan that has been subject to the ISPP; and

(b) the affected parts of the plan (as altered by those recommendations)—

(i) are deemed to have been approved by the territorial authority under clause 17(1); and

(ii) become operative in accordance with clause 20.

105 Minister must decide on rejected and alternative recommendations

(1) The Minister must decide—

(a) to accept or reject any or all of the recommendations referred to the Minister under clause 101(2)(a); and

(b) for any recommendation that the Minister rejects, whether to accept an alternative recommendation referred to the Minister under clause 101(2)(b).

(2) In making a decision under subclause (1), the Minister—

(a) may take into account only those considerations that the independent hearings panel could have taken into account when making its recommendation; but

(b) may have regard to—

(i) whether the specified territorial authority has complied with the procedural requirements, including time frames, required by the direction made under section 80L; and

(ii) whether and, if so, how the independent hearings panel has had regard to that direction; and

(iii) whether and, if so, how the specified territorial authority and the independent hearings panel have had regard to the statement of expectations (if any) included in that direction.

(3) Once the Minister has made decisions under subclause (1), the Minister must, as soon as practicable, notify the specified territorial authority in writing of those decisions and the Minister's reasons for making them.

(4) Subclause (5) applies if the Minister decides that they wish to accept a recommendation but alter the recommendation in a way that has a minor effect or to correct a minor error.

(5) The Minister may notify the recommendation to the specified territorial authority as accepted, but only if, when complying with subclause (3), the Minister sets out the alterations to the recommendation.

(6) A recommendation to which subclause (4) applies must, for all purposes, be treated as an accepted recommendation.

(7) On the notification under clause 106(1) of the Minister's decisions,—

(a) the recommendations of the independent hearings panel referred to the Minister under clause 101(2) (as accepted or altered by the Minister's decisions) are incorporated into the district plan that has been subject to the ISPP; and

(b) the plan (as altered by those recommendations)—

(i) is deemed to have been approved by the territorial authority under clause 17(1); and

(ii) becomes operative in accordance with clause 20.

106 Notification of Minister's decisions

(1) Once the Minister has notified a specified territorial authority under clause 105(3) of decisions made under clause 105(1), the specified territorial authority must publicly notify those decisions.

(2) The specified territorial authority must publicly notify the Minister's decisions made under clause 105(1) in a way that sets out the following information:

(a) each recommendation referred to the Minister under clause 101(2)(a) that the Minister accepts; and

(b) each recommendation referred to the Minister under clause 101(2)(a) that the Minister rejects and the reasons for doing so; and

(c) any alternative recommendation referred to the Minister under clause 101(2)(b) that the Minister has accepted for a rejected recommendation.

(3) Subclause (4) applies if the Minister has, in accordance with clause 105(4), accepted a recommendation but altered it.

(4) The specified territorial authority must, when complying with subclause (2),—

(a) notify the recommendation as accepted; and

(b) set out the alterations to the recommendation.

(5) Not later than 5 working days after the Minister's decisions under clause 105(1) are publicly notified, the specified territorial authority must serve the public notice on every person who made a submission on the IPI.

(6) The specified territorial authority must also—

(a) make a copy of the public notice and the decisions under clause 105(1) publicly available—

(i) on an Internet site maintained by or on behalf of the territorial authority; and

(ii) in physical form at all of the territorial authority's offices and all public libraries in its district; and

(b) include with the notice a statement of the places where a copy of the decisions are available; and

(c) send or provide, on request, a copy of the decisions within 3 working days after the request is received.

Appeals and judicial review

107 Scope of appeal rights

There is no right of appeal under this Act against any decision or action of the Minister, a specified territorial authority, or any other person under this Part.

108 Judicial review

Nothing in this Part limits or affects any right of judicial review a person may have in respect of any matter to which this Part applies.

Subpart 2—Other amendments

17 New Schedules 3A and 3B inserted

After Schedule 3, insert the Schedules 3A and 3B set out in Schedules 1 and 2 of this Act.

18 Schedule 12 amended

In Schedule 12,—

(a) insert the Part set out in Schedule 3 of this Act as the last Part; and

(b) make all necessary consequential amendments.

Schedule 1
New Schedule 3A inserted

s 17

Schedule 3A
MDRS to be incorporated by specified territorial authorities

s 77G

Part 1
General

1 Interpretation

(1) In this schedule, unless the context otherwise requires,—

construction includes construction and conversion, and additions and alterations to an existing building

density standard means a standard setting out requirements relating to building height, height in relation to boundary, building setbacks, building coverage, outdoor living space, outlook space, windows to streets, or landscaped area for the construction of a building

subdivision means the subdivision of land, as defined in section 218(1).

(2) Terms used in this schedule that are defined in section 77F have the same meaning in this schedule as they do in that section.

(3) Terms used in this schedule that are defined in the national planning standards have the same meaning in this schedule as they do in those standards.

2 Permitted activities

(1) It is a permitted activity to construct or use a building if it complies with the density standards in the district plan (once incorporated as required by section 77G).

(2) There must be no other density standards included in a district plan additional to those set out in Part 2 of this schedule relating to a permitted activity for a residential unit or building.

3 Subdivision as controlled activity

Subdivision requirements must (subject to section 106) provide for as a controlled activity the subdivision of land for the purpose of the construction and use of residential units in accordance with clauses 2 and 4.

4 Restricted discretionary activities

A relevant residential zone must provide for as a restricted discretionary activity the construction and use of 1 or more residential units on a site if they do

not comply with the building density standards in the district plan (once incorporated as required by section 77G).

5 Certain notification requirements precluded

(1) Public notification of an application for resource consent is precluded if the application is for the construction and use of 1, 2, or 3 residential units that do not comply with 1 or more of the density standards (except for the standard in clause 10) in the district plan (once incorporated as required by section 77G).

(2) Public and limited notification of an application for resource consent is precluded if the application is for the construction and use of 4 or more residential units that comply with the density standards (except for the standard in clause 10) in the district plan (once incorporated as required by section 77G).

(3) Public and limited notification of an application for a subdivision resource consent is precluded if the subdivision is associated with an application for the construction and use of residential units described in subclause (1) or (2).

6 Objectives and policies

(1) A territorial authority must include the following objectives in its district plan:

Objective 1

(a) a well-functioning urban environment that enables 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

(b) a relevant residential zone provides for a variety of housing types and sizes that respond to—

(i) housing needs and demand; and

(ii) the neighbourhood's planned urban built character, including 3-storey buildings.

(2) A territorial authority must include the following policies in its district plan:

Policy 1

(a) enable a variety of housing types with a mix of densities within the zone, including 3-storey attached and detached dwellings, and low-rise apartments:

Policy 2

(b) apply the MDRS across all relevant residential zones in the district plan except in circumstances where a qualifying matter is relevant (including matters of significance such as historic heritage and the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga):

Policy 3

(c) encourage development to achieve attractive and safe streets and public open spaces, including by providing for passive surveillance:

Policy 4

(d) enable housing to be designed to meet the day-to-day needs of residents:

Policy 5

(e) provide for developments not meeting permitted activity status, while encouraging high-quality developments.

Subdivision requirements

7 General subdivision requirements

Any subdivision provisions (including rules and standards) must be consistent with the level of development permitted under the other clauses of this schedule, and provide for subdivision applications as a controlled activity.

8 Further rules about subdivision requirements

Without limiting clause 7, there must be no minimum lot size, shape size, or other size-related subdivision requirements for the following:

(a) any allotment with an existing residential unit, if—

(i) either the subdivision does not increase the degree of any non-compliance with the density standards in the district plan (once incorporated as required by section 77G) or land use consent has been granted; and

(ii) no vacant allotments are created:

(b) any allotment with no existing residential unit, where a subdivision application is accompanied by a land use application that will be determined concurrently if the applicant for the resource consent can demonstrate that—

(i) it is practicable to construct on every allotment within the proposed subdivision, as a permitted activity, a residential unit; and

(ii) each residential unit complies with the density standards in the district plan (once incorporated as required by section 77G); and

(iii) no vacant allotments are created.

9 Rules about common walls

For the purposes of clause 8(a)(i), if a subdivision is proposed between residential units that share a common wall, the requirements as to height in relation to boundary in the district plan (once incorporated as required in section 77G) do not apply along the length of the common wall.

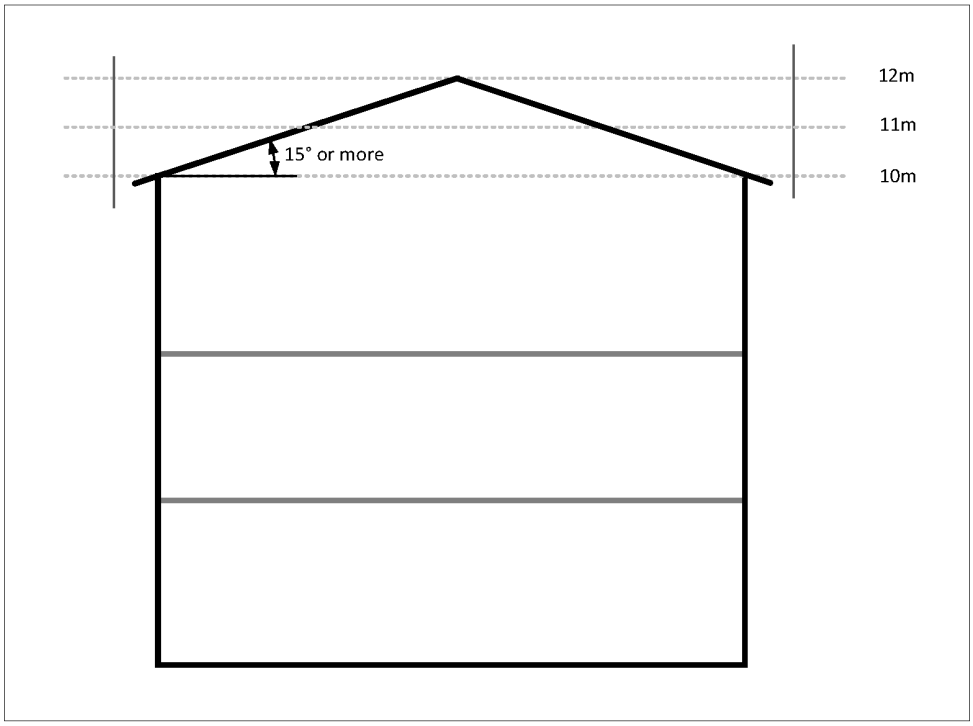
Part 2
Density standards

10 Number of residential units per site

There must be no more than 3 residential units per site.

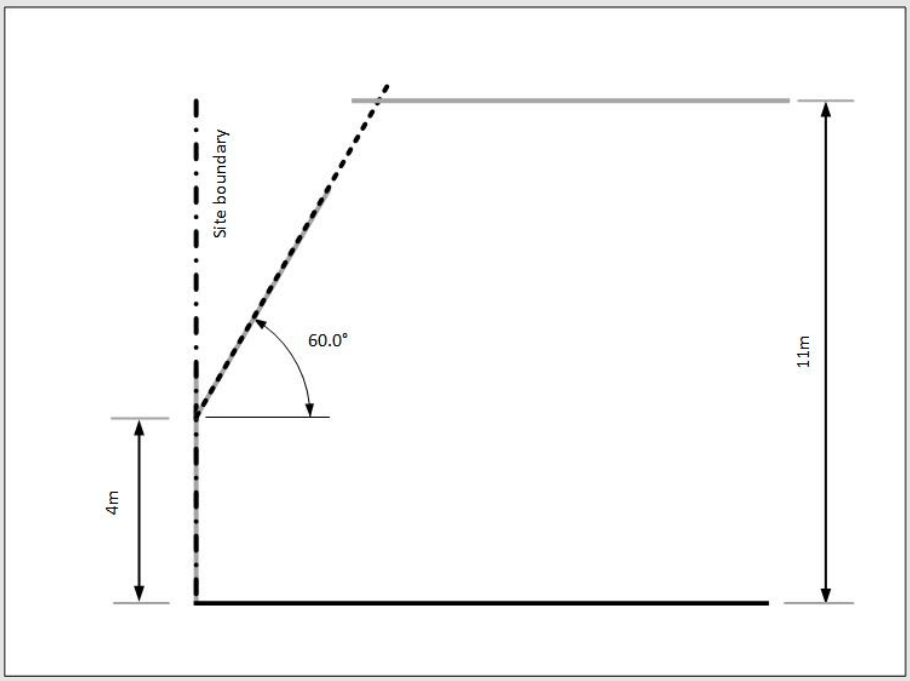
11 Building height

Buildings must not exceed 11 metres in height, except that 50% of a building's roof in elevation, measured vertically from the junction between wall and roof, may exceed this height by 1 metre, where the entire roof slopes 15° or more, as shown on the following diagram:



12 Height in relation to boundary

(1) Buildings must not project beyond a 60° recession plane measured from a point 4 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.



(2) This standard does not apply to—

(a) a boundary with a road:

(b) existing or proposed internal boundaries within a site:

(c) site boundaries where there is an existing common wall between 2 buildings on adjacent sites or where a common wall is proposed.

13 Setbacks

(1) Buildings must be set back from the relevant boundary by the minimum depth listed in the yards table below:

Yard	Minimum depth
Front	1.5 metres
Side	1 metre
Rear	1 metre (excluded on corner sites)

(2) This standard does not apply to site boundaries where there is an existing common wall between 2 buildings on adjacent sites or where a common wall is proposed.

14 Building coverage

The maximum building coverage must not exceed 50% of the net site area.

15 Outdoor living space (per unit)

(1) A residential unit at ground floor level must have an outdoor living space that is at least 20 square metres and that comprises ground floor, balcony, 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; and

(d) may be—

(i) grouped cumulatively by area in 1 communally accessible location; or

(ii) located directly adjacent to the unit; and

(e) is free of buildings, parking spaces, and servicing and manoeuvring areas.

(2) 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; and

(b) is accessible from the residential unit; and

(c) may be—

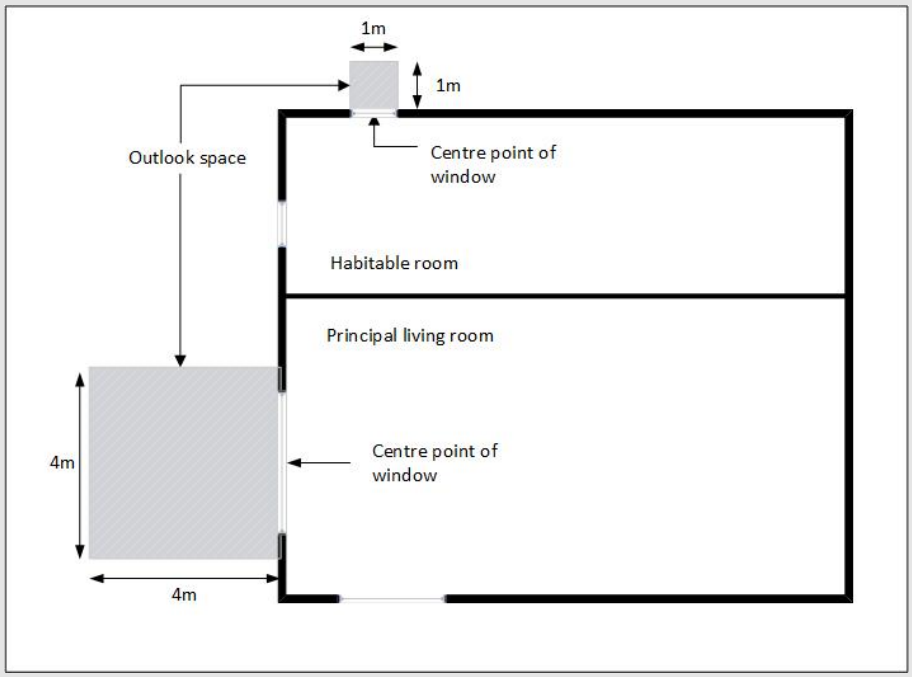
(i) grouped cumulatively by area in 1 communally accessible location, in which case it may be located at ground level; or

(ii) located directly adjacent to the unit.

16 Outlook space (per unit)

(1) An outlook space must be provided for each residential unit as specified in this clause.

(2) An outlook space must be provided from habitable room windows as shown in the diagram below:



(3) 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 4 metres in depth and 4 metres in width; and

(b) all other habitable rooms must have an outlook space with a minimum dimension of 1 metre in depth and 1 metre in width.

(4) The width of the outlook space is measured from the centre point of the largest window on the building face to which it applies.

(5) Outlook spaces may be over driveways and footpaths within the site or over a public street or other public open space.

(6) Outlook spaces may overlap where they are on the same wall plane in the case of a multi-storey building.

(7) Outlook spaces may be under or over a balcony.

(8) Outlook spaces required from different rooms within the same building may overlap.

(9) Outlook spaces must—

(a) be clear and unobstructed by buildings; and

(b) not extend over an outlook space or outdoor living space required by another dwelling.

17 Windows to street

Any residential unit facing the street must have a minimum of 20% of the street-facing façade in glazing. This can be in the form of windows or doors.

18 Landscaped area

(1) A residential unit at ground floor level must have a landscaped area of a minimum of 20% of a developed site with grass or plants, and can include the canopy of trees regardless of the ground treatment below them.

(2) The landscaped area may be located on any part of the development site, and does not need to be associated with each residential unit.

Schedule 2
New Schedule 3B inserted

s 17

Schedule 3B
Policies 3, 4, and 5 of National Policy Statement on Urban Development 2020 (as amended by section 77S(1) of the Act)

ss 2(1), 77S(1)

Policy 3: In relation to tier 1 urban environments, regional policy statements and district plans enable:

(a) in city centre zones, building heights and density of urban form to realise as much development capacity as possible, to maximise benefits of intensification; and

(b) in metropolitan centre zones, building heights and density of urban form to reflect demand for housing and business use in those locations, and in all cases building heights of at least 6 storeys; and

(c) building heights of at least 6 storeys within at least a walkable catchment of the following:

  (i) existing and planned rapid transit stops:

  (ii) the edge of city centre zones:

  (iii) the edge of metropolitan centre zones; and

(d) within and adjacent to neighbourhood centre zones, local centre zones, and town centre zones (or equivalent), building heights and density of urban form commensurate with the level of commercial activities and community services.

Policy 4: Regional policy statements and district plans applying to tier 1 urban environments modify the relevant building height or density requirements under Policy 3 only to the extent necessary (as specified in subpart 6) to accommodate a qualifying matter in that area.

Policy 5: Regional policy statements and district plans applying to tier 2 and 3 urban environments enable heights and density of urban form commensurate with the greater of:

(a) the level of accessibility by existing or planned active or public transport to a range of commercial activities and community services; or

(b) relative demand for housing and business use in that location.

Schedule 3
New Part 5 inserted into Schedule 12

s 18

Part 5
Provisions relating to Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021

32 Interpretation

In this Part,—

Amendment Act means the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021

commencement date means the following:

(a) in the case of a tier 2 or tier 3 territorial authority, the date on which the applicable regulations made under section 80I(1) or 80K(1), as the case may be, commence:

(b) in the case of all other specified territorial authorities, the day after the date on which the Amendment Act receives the Royal assent

tier 2 or tier 3 territorial authority means the following:

(a) a tier 2 territorial authority required to prepare and notify an IPI by regulations made under section 80I(1):

(b) a tier 3 territorial authority required to prepare and notify an IPI by regulations made under section 80K(1).

33 Status of notified proposed district plan of specified territorial authority

(1) This clause applies if a specified territorial authority has notified a proposed district plan before the commencement date and the proposed district plan is not operative at the commencement date.

(2) The specified territorial authority—

(a) is not required to notify a plan change to its district plan to incorporate the MDRS into any relevant residential zone or to give effect to policies 3 and 4, or policy 5, as the case requires, of the NPS-UD; but

(b) must notify a single variation to its proposed district plan to incorporate the MDRS and give effect to policies 3 and 4, or policy 5, as the case requires, of the NPS-UD, by whichever of the following dates is applicable:

(i) in the case of a tier 2 territorial authority required to notify an IPI by regulations made under section 80I(1), on or before the date specified in those regulations, if those regulations are required by section 80I(2) to specify a notification date:

(ii) in the case of a tier 3 territorial authority required to notify an IPI, on or before the date specified in regulations made under section 80K(1):

(iii) in the case of all other specified territorial authorities, on or before 20 August 2022.

(3) The variation referred to in subclause (2)(b)—

(a) is the specified territorial authority's IPI required to be notified in accordance with section 80F; and

(b) must use the ISPP to incorporate the MDRS and give effect to policy 3 or 5, as the case requires, of the NPS-UD; and

(c) must ensure that the specified territorial authority can carry out its functions under sections 77G(1) and 77N(1); and

(d) may include—

(i) any provision that is proposed to be included in a residential zone; and

(ii) any other provision that is proposed to be included in a non-residential urban zone, where that zone is giving effect to the intensification policies in accordance with section 77N; and

(iii) any changes consequential on, or necessary to give effect to, the variation.

(4) A variation referred to in subsection (3)(a) must be treated as if it had been notified in accordance with section 80F, and the applicable provisions of this Act enacted by the Amendment Act apply to the variation accordingly.

(5) To avoid doubt, section 86B applies to rules notified in the variation.

34 Status of partly completed proposed plan changes modifying relevant residential zone

(1) This clause applies to any plan change that is proposing or requesting changes to a relevant residential zone or a new residential zone if—

(a) the plan change has been notified by a specified territorial authority before the commencement date, but decisions on submissions on that plan change have not been notified in accordance with clause 10 of Schedule 1 before that date; and

(b) the plan change has not been withdrawn; and

(c) the MDRS is not already being incorporated through any proposed rules.

(2) The specified territorial authority must notify a variation to the plan change at the same time that it notifies the IPI to incorporate the MDRS as required by section 77G(3).

(3) However, the variation does not merge with the specified territorial authority's IPI but must be processed at the same time as the IPI, using the ISPP.

(4) The variation must incorporate the MDRS into all areas within the scope of the plan change that are a relevant residential zone or a new residential zone.

(5) The variation may only include those uses referred to in section 80G(1)(b).

(6) The variation may be declined or withdrawn only if it is no longer required for the plan change to meet the requirements of section 77G(1).

(7) The variation must use the ISPP to incorporate the MDRS.

(8) For the avoidance of doubt,—

(a) section 86B does not apply to any rules notified in the variation:

(b) this clause applies only in relation to the district of a specified territorial authority.

35 Some private plan change requests may rely on IPI to incorporate MDRS

(1) This clause applies to any plan change request to change a district plan—

(a) that is made to a specified territorial authority under clause 21 of Schedule 1 before the specified territorial authority has notified its IPI in accordance with section 80F; and

(b) to which clause 34 does not apply; and

(c) that requests the creation of a new residential zone that proposes to adopt all the zone provisions of a relevant residential zone but does not amend the provisions in the relevant residential zone.

(2) Despite clause 25(4A) of Schedule 1, a specified territorial authority may accept or adopt the request and incorporate the MDRS for the new residential zone through the IPI.

(3) A specified territorial authority may decline the request under clause 25(4) of Schedule 1 or apply the rest of clause 25 of that schedule, as the case requires.

36 Limits on appeals

(1) To avoid doubt, clause 107 of Schedule 1 (which states that there is no right of appeal against decisions made under Part 6 of Schedule 1) only applies to—

(a) the variation to the proposed district plan notified in accordance with clause 33(2)(b) and not the underlying proposed district plan:

(b) the variation to the plan change notified in accordance with clause 34(2) and not the underlying plan change.

(2) Subclause (1) does not affect any other right of appeal.

37 Plan change or private plan change notified before commencement

(1) Subclause (2) applies to a plan change or private plan change that, before the commencement date,—

(a) was notified; and

(b) was the subject of a decision under clause 10 of Schedule 1 that was publicly notified.

(2) If this subclause applies, the plan change or private plan change may proceed as if the Amendment Act had not been enacted.

Legislative history

19 October 2021	Introduction (Bill 83–1)
26 October 2021	First reading and referral to Environment Committee
2 December 2021	Reported from Environment Committee
7 December 2021	Second reading
8 December 2021	Committee of the whole House (Bill 83–2)
14 December 2021	Third reading
20 December 2021	Royal assent

This Act is administered by the Ministry for the Environment.

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