

Notice of Meeting:

I hereby give notice that an ordinary Meeting of the District Plan Committee will be held on:

Date: Wednesday 15 December 2021
Time: 9.30am
Meeting Room: Council Chamber and Audio Visual Link
Venue: Municipal Building, Garden Place, Hamilton

Lance Vervoort
Chief Executive

District Plan Committee *Komiti Ture-aa-takiwaa* OPEN AGENDA

Membership

Chairperson Cr R Hamilton
Heamana

Deputy Chairperson Cr A O'Leary
Heamana Tuarua

Members Mayor P Southgate Cr M Gallagher
Cr S Thompson Maangai J Whetu
Cr R Pascoe Deputy Mayor G Taylor (as alternate)

Quorum: A majority of members (including vacancies)

Meeting Frequency: Six Weekly

Becca Brooke
Governance Manager
Menetia Mana Whakahaere

6 December 2021

Telephone: 07 838 6727
Becca.Brooke@hcc.govt.nz
www.hamilton.govt.nz

Purpose

The District Plan Committee is responsible for providing Governance leadership and direction to staff to develop amendments to the Hamilton City Operative District Plan 2017.

In addition to the common delegations, the District Plan Committee is delegated the following Terms of Reference and powers:

Terms of Reference:

1. To provide and approve broad strategic direction to inform and guide the development of the District Plan amendments programme of work.
2. To prepare and approve a draft set of District Plan amendments for the purpose of obtaining initial feedback and comment from the community, stakeholder and tangata whenua groups.
3. To recommend any proposed District Plan amendments to the Council for adoption and release for formal notification.
4. To provide regular updates to the Council on the progress of the District Plan amendments programme of work.

The Committee is delegated the following powers to act:

- Approval of matters determined by the Committee within its Terms of Reference.

The Committee is delegated the following recommendatory powers:

- The Committee may make recommendations to Council
- The Committee may make recommendations to other Committees.

Recommendatory Oversight of Policies and Bylaws:

N/A

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1 Apologies – *Tono aroha*

2 Confirmation of Agenda – *Whakatau raarangi take*

The Committee to confirm the agenda.

3 Declaration of Interest – *Tauaakii whaipaaanga*

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as an elected representative and any private or other external interest they might have.

4 Public Forum – *Aatea koorero*

As per Hamilton City Council's Standing Orders, a period of up to 30 minutes has been set aside for a public forum. Each speaker during the public forum section of this meeting may speak for five minutes or longer at the discretion of the Chair.

Please note that the public forum is to be confined to those items falling within the terms of the reference of this meeting.

Speakers will be put on a Public Forum speaking list on a first come first served basis in the Council Chamber prior to the start of the Meeting. A member of the Council Governance Team will be available to co-ordinate this. As many speakers as possible will be heard within the allocated time.

If you have any questions regarding Public Forum please contact Governance by telephoning 07 838 6727.

Council Report

Item 5

Committee: District Plan Committee
Date: 15 December 2021
Author: Tyler Gaukrodger
Authoriser: Becca Brooke
Position: Governance Advisor
Position: Governance Manager
Report Name: Confirmation of the District Plan Open Minutes of 4 November 2021

Report Status	<i>Open</i>
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Staff Recommendation - *Tuutohu-aa-kaimahi*

That the Committee confirm the Open Minutes of the District Plan Committee meeting held on 4 November 2021 as a true and correct record.

Attachments - *Ngaa taapirihanga*

Attachment 1 - District Plan Open Unconfirmed Minutes 4 November 2021

District Plan Committee *Komiti Ture-aa-takiwaa* OPEN MINUTES

Minutes of a meeting of the District Plan Committee held via Audio Visual Link on Thursday 4 November 2021 at 9.33am.

PRESENT

Chairperson Cr R Hamilton

Heamana

Deputy Chairperson Cr A O'Leary

Heamana Tuarua

Members
Mayor P Southgate
Deputy Mayor G Taylor
Cr S Thompson
Cr R Pascoe
Cr M Gallagher
Maangai J Whetu

In Attendance
Cr van Oosten
Cr Donovan
Cr Wilson
Cr Macpherson
Blair Bowcott – General Manager Growth
Debra Stan-Barton - Project Manager
Lachlan Muldowney – Barrister for Hamilton City Council

Governance Team
Amy Viggers – Governance Team Leader
Tyler Gaukrodger – Governance Advisor

1. **Apologies – *Tono aroha***
Resolved: (Cr Hamilton/Cr O'Leary)
That the apologies for lateness from Mayor Southgate are accepted.
2. **Confirmation of Agenda – *Whakatau raarangi take***
Resolved: (Cr Hamilton/Cr O'Leary)
That the agenda is confirmed.
3. **Declarations of Interest – *Tauaakii whaipaaanga***
No members of the Council declared a Conflict of Interest.
4. **Public Forum – *Aatea koorero***
No members of the public wished to speak.

5. Confirmation of the District Plan Committee Open Minutes of 21 September 2021

Resolved: (Cr Hamilton/Cr O'Leary)

That the District Plan Committee confirm the Open Minutes of the District Plan Committee Meeting held on 21 September 2021 as a true and correct record.

6. Chair's Report

The Chair spoke to his report, noting the recent NPS information being released to the public by Central Government would allow Council to speak more about the District Plan programme in open meetings. He and staff responded to questions from Members concerning the District Plan programme timeline, collaboration with Mana Whenua, requirements of the building act, changes to build quality due to the Resource Management Amendment bill, requirements for tier one local authorities, increased amenity requirements as a result of the new bill, opportunities for Council strategic planning to influence central Government, details to include in the submission to central Government, and density requirements in the new bill.

Resolved: (Cr Hamilton/Deputy Mayor Taylor)

That the District Plan Committee receives the report.

Mayor Southgate joined the meeting (9.37am) during the above item. She was present when the matter was voted on.

7. General Manager's Report

The General Manager Growth took the report as read.

Resolved: (Cr Hamilton/Mayor Southgate)

That the District Plan Committee receives the report.

8. Resolution to Exclude the Public

Resolved: (Cr Hamilton/Cr Pascoe)

Section 48, Local Government Official Information and Meetings Act 1987

The following motion is submitted for consideration:

That the public be excluded from the following parts of the proceedings of this meeting, namely consideration of the public excluded agenda.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution follows.

General subject of each matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
C1. Confirmation of the District Plan Committee Public Excluded Minutes of 21 September 2021) Good reason to withhold information exists under Section 7 Local Government Official Information and Meetings Act 1987	Section 48(1)(a)
C2. Update on the District Plan Change Programme)	

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

Item C1.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C2.	to maintain the effective conduct of public affairs through protecting persons from improper pressure or harassment to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (f) (ii) Section 7 (2) (j)

The meeting went into a public excluded session at 10.44am

The meeting was declared closed at 12.21pm

Council Report

Item 6

Committee: District Plan Committee

Date: 15 December 2021

Author: Tyler Gaukrodger

Authoriser: Becca Brooke

Position: Governance Advisor

Position: Governance Manager

Report Name: Chair's Report

Report Status	<i>Open</i>
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Recommendation - *Tuutohu*

That the District Plan Committee receives the report.

Attachments - *Ngaa taapirihanga*

Attachment 1 - Chair's Report



Chair's Report

At the time of writing this, we have just had feedback on the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill. While we as HCC and Futureproof partners has have achieved some significant changes and recognition of our points in the select committee report back to Parliament, the clumsy and over-reaching 3 dwellings/3 stories remains in play with some additional considerations.

Note that the Bill is due to have second reading and is due to be finalised as legislation on 16 December (after the committee). So things could still change further over next couple of weeks.

Key recommendations following Bill submissions:

- That the Bill explicitly acknowledges Te Ture Whaimana o Te Awa o Waikato (Vision & Strategy) as a qualifying matter with further work to be carried out to ensure the Bill reflects the intention to uphold Te Ture Whaimana o Te Awa o Waikato and other Treaty settlement legislation. This was a significant aspect we fought for in our submission. The key for us now will be how we provide meaningful 'defence,' through data to demonstrate how excessive quantity and/or geographical placement may impact on the qualifying matter and what recourse we might have.
- That notified plan changes in progress do not need to be withdrawn and should continue subject to variation – this is good for Peacocke
- That the suite of urban design controls in the medium density residential standards (MDRS) are to be amended
- That the Bill makes it clear that implementing measures to restrict density where a qualifying matter has been identified is within the scope of an intensification planning instrument (IPI). An IPI is the plan change or variation that implements the intensification policies of the NPS-UD and the MDRS.
- That the IPI could include provisions relating to subdivision, fences, earthworks, district-wide matters, infrastructure, qualifying matters, stormwater management, provision of green space etc.
- A signal that District Plan financial contributions policies could potentially be used to capture some of the additional costs.

No changes were recommended to the requirement to allow three dwelling on a site as a permitted activity.

What this means for HCC & the plan change programme:

- Progress work on identifying what evidence we need to support using the Vision & Strategy as a qualifying matter to manage intensification now, and what will need to be provided in the future.
- Further clarification required regarding whether we can use the intensification streamlined planning process to notify Historic Heritage & Significant Natural Areas.
- Lots and lots of work

Political –The Act party recognise this is a clumsy ‘Bipartisan Bill’ and is seeking to try and create an omnibus bill that supports infrastructure support with it. While this is aspirational I feel it will be over reaching to garner wider political support as the costs are both excessive and currently unquantifiable at Tier 1 level NZ wide. Rather it would be my view as I have held constantly, that a compromise on this bill would be to introduce the density provisions with some urban design characteristics, but most importantly married up to our area plans work in line with the NPS-UD where we have a chance of quantifying the financial quantum involved, the strategic and overlapping retrofit requirements including the massive disruption to the above ground services, amenity, transportation etc and most importantly identifying ways of paying for it including but not limited to DC’s, 10YP provisions and rating impacts, 30 year infrastructure planning, financial contributions, off balance sheet SPV’s, targeted rates etc etc

Otherwise it feels like we have a snowball in hells chance of moving forward with any sense of sensibility.

Interesting to note new National Party Leader Chris Luxon (See link) was quick to share his concern with the new bill. Mayor Paula copied him into the letter that was circulated around submission time to all the other political leaders in a hope we may still have some scope for further improvements.

<https://www.newsroom.co.nz/nationals-new-leader-revisits-medium-density-housing-pact>

Chair’s Recommendation

That the District Plan Committee receives the report.

Ngaa Mihi,
Ryan Hamilton

Chair District Plan Committee

Council Report

Committee: District Plan Committee **Date:** 15 December 2021
Author: Amy Trigg **Authoriser:** Blair Bowcott
Position: Senior Policy Analyst **Position:** General Manager Growth
Report Name: Mandatory change to the Hamilton District Plan - inclusion of NPS-UD housing bottom lines

Report Status	<i>Open</i>
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Purpose - *Take*

1. To inform the District Plan Committee of a mandatory change to the Hamilton District Plan as required by the National Policy Statement for Urban Development 2020 (NPS-UD), and to seek the Committee's recommendation to the Council to approve this change.

Staff Recommendation - *Tuutohu-aa-kaimahi* (Recommendation to the Council)

2. That the District Plan Committee:
 - a) receives the report; and
 - b) recommends that the Council:
 - i. approves amending the Hamilton District Plan to include a new objective as set out in Attachment 1 of the staff report, in accordance with the requirements of the National Policy Statement on Urban Development 2020; and
 - ii. notes that a public notice of this change to the Hamilton District Plan will be issued within 5 working days of implementation of the change.

Executive Summary - *Whakaraapopototanga matua*

3. The NPS-UD requires all high growth councils, including Hamilton City Council, Waikato Regional Council, Waipa District Council and Waikato District Council, to set housing bottom lines for feasible, reasonably expected to be realised development capacity for housing. Reassessment of available capacity must be carried out at least every three years.
4. Housing bottom lines in the NPS-UD have replaced the requirement for a set of housing supply targets in the previous legislation, the NPS-UDC.
5. The NPS-UD requires that these housing bottom lines are included as an objective in the Waikato Regional Policy Statement (WRPS) and relevant district plans. This change must occur without using the usual public participation process set out in Schedule 1 of the Resource Management Act (RMA). While the change is required and cannot be avoided, any amendment of the District Plan must be approved by the Council.
6. Once the Council has approved the change, the Hamilton District Plan will be directly amended as required. This will be done in a coordinated manner with the other relevant councils with a public notice of the change issued.

7. Staff consider the decision in this report has low significance and that the recommendations comply with the Council's legal requirements.

Background - *Koorero whaimaarama*

8. The NPS-UD is part of the Government's Urban Growth Agenda which seeks to support productive and well-functioning cities and provide adequate opportunity for land development for business and housing to meet community needs.
9. The NPS-UD came into force in August 2020, replacing the National Policy Statement on Urban Development Capacity 2016 (NPS-UDC). It is designed to improve the responsiveness and competitiveness of land and development markets. In particular, it requires local authorities to open up more development capacity, so more homes can be built in response to demand.
10. Under the NPS-UD, Hamilton is considered a Tier 1 urban environment; Waikato Regional Council, Hamilton City Council (HCC), Waikato District Council (WDC) and Waipā District Council (Waipā DC) are all considered Tier 1 local authorities.
11. The NPS-UD requires Tier 1 and 2 local authorities to:
 - i. prepare and make publicly available a housing and business development capacity assessment (HBA) for its urban environments every 3 years, in time to inform the relevant authority's next long-term plan. The HBA includes information on the impact of planning and infrastructure decisions on demand and supply of housing and business land and the development capacity that is sufficient to meet demand;
 - ii. set housing bottom lines for the short-medium term and the long term in their regional policy statements and district plans. These changes are to be made as soon as practicable after a HBA is made publicly available. The insertion of housing bottom lines must be done without using a process in Schedule 1 of the RMA, meaning the amendment will not go through a standard public notification process.
12. The Future Proof Partners commissioned a Housing Development Capacity Assessment report under the requirements of the NPS-UD, which was completed in July 2021. The report concluded that there is sufficient capacity in the sub-region to support short, medium and long term demand for dwellings.
13. The purpose of the housing bottom lines is to clearly state the amount of development capacity that is sufficient to meet expected housing demand, plus an appropriate competitiveness margin for the Future Proof region and each constituent district of a tier 1 or tier 2 urban environment.
14. The housing bottom lines must be based on information from the HBA and are to be calculated as the sum of the amount of feasible, reasonably expected to be realised development capacity that must be enabled to meet demand, along with the required competitiveness margins of 20% for the short to medium term and 15% for the long term.
15. Housing bottom lines in the NPS-UD have replaced the requirement for a set of housing supply targets in the NPS-UDC. The NPS-UD wording is intended to change the perception of housing targets from a maximum or fixed amount required, to a bottom line of what is required at a minimum, with the intent that more than the minimum could be produced.

Discussion – *Matapaki*

District Plan Update

16. This report advises of a mandatory change to the Hamilton District Plan required by the NPS-UD. The change replaces the previous objective relating to minimum housing targets that was required under the NPS-UDC with a very similar objective relating to the provision of housing bottom lines.
17. The change is a mandatory requirement under the NPS-UD and is to occur without using the usual process set out in Schedule 1 of the Resource Management Act 1991 (RMA), which involves public notification, submissions and hearings.
18. Although the change is required by the NPS-UD and cannot be avoided, any amendment of the Hamilton District Plan must be approved by the Council.

The updated objective

19. The change to the District Plan will insert the housing bottom lines as a replacement of the existing objective 2.2.6 in the Strategic Framework section (Section 2) (see **Attachment 1**).
20. Inserting the objective into the District Plan does not require further amendment of the District Plan at this time, as the assessed feasible development capacity of the plan has been found to be higher than the housing bottom lines. Future monitoring of the amount of reasonably expected to be realised capacity may, however, initiate changes to the District Plan zoning and development rules if required. Reassessment of available capacity is required at least every three years, with the next report required in time to inform the 2024 Long Term Plan.
21. The housing bottom lines for each of the districts with high growth areas – Hamilton City, Waikato and Waipā Districts – have been developed, aligned and mutually agreed through the work of the Future Proof partnership.

Public notification of the change to the District Plan

22. It is anticipated that inserting the above objective and table into the District Plan will occur in late December 2021, in alignment with other Future Proof partner councils (Waikato Regional Council, Waikato District Council and Waipā District Council). Staff intend to insert the relevant targets into the District Plan on the same date as the regional council and other territorial authorities, once all of the councils have been informed of the changes.
23. The amendment to the WRPS and the district plans will be notified via a public notice in local newspapers and will come into force from its published date. Local Waikato territorial authorities, government agencies and iwi will be separately advised of the change. The new version of the District Plan will be uploaded to the Hamilton City Council website and any printed copies will be updated.

Financial Considerations - *Whaiwhakaaro Puutea*

24. Existing budget allocation will cover any costs relating to the change to the District Plan.

Legal and Policy Considerations - *Whaiwhakaaro-aa-ture*

25. Staff confirm that the staff recommendation complies with the Council's legal and policy requirements under the NPS-UD.

26. Inserting the housing bottom lines into the District Plan is required to meet Council's obligations under sections 55(2) and 55(2A) of the Resource Management Act 1991 ("Local authority recognition of national policy statements"); and Policy 7 of the NPS-UD.

Wellbeing Considerations - *Whaiwhakaaro-aa-oranga tonutanga*

27. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
28. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below.
29. The recommendations set out in this report are consistent with that purpose.

Social

30. Social wellbeing is defined as the capacity of individuals, their families, whaanau, iwi, haapu and a range of communities to set goals and achieve them.
31. Having access to decent housing that is affordable is important for community wellbeing. Ensuring the District Plan enables sufficient capacity to meet future demands for housing is one way that Council supports the provision of housing.

Economic

32. Economic wellbeing is defined as the capacity of the economy to generate employment and wealth necessary for present and future financial security.
33. The NPS-UD recognises the national significance of providing sufficient development capacity to meet the different needs of people and communities and adequate opportunities for land to be developed to meet community, business and housing needs.
34. This includes ensuring that plans make room for growth both 'up' and 'out', and that rules are not unnecessarily constraining growth.

Environmental

35. There are no specific environmental considerations regarding the insertion of housing bottom lines into the district plan.

Cultural

36. While there are no specific cultural considerations with regard to the insertion of housing bottom lines, more generally the NPS-UD requires councils to plan well for growth and ensure a well-functioning urban environment for all people, communities, and future generations. This includes ensuring urban development occurs in a way that considers the principles of the Treaty of Waitangi (te Tiriti o Waitangi) and issues of concern to hapū and iwi.

Risks - *Tuuraru*

37. The risk of not undertaking this mandatory change to the Hamilton District Plan would result in non-compliance with the statutory requirements of the NPS-UD and misalignment with the national direction established by the NPS-UD regarding urban environments, and the updated strategic objective in the Waikato Regional Policy Statement.

Significance & Engagement Policy - *Kaupapa here whakahira/anganui*

Significance

38. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the recommendation(s) in this report has/have a low level of significance.

Engagement

39. The NPS-UD requires that minimum targets be incorporated into the district plan without a notification or submission process.
40. Given the low level of significance determined, the engagement level is low. No engagement is required.

Attachments - *Ngaa taapirihanga*

Attachment 1 - Amended objective 2.2.6 - Clean Version

Attachment 2 - Amended objective 2.2.6 - Tracked Changes Version

Residential Development

Objective			
2.2.6 Sufficient feasible, reasonably expected to be realised development capacity for housing is provided to meet the bottom lines in the table below:			
Housing bottom lines (number of dwellings)			
Area	Short to Medium 1-10 years (2020-2030)	Long term 11-30 years (2031-2050)	Total
Hamilton City	14,300	28,800	43,100
Explanation			
The National Policy Statement on Urban Development 2020 requires housing bottom lines as an objective in the District Plan. These housing bottom lines are in accordance with the Future Proof Housing Development Capacity Assessment 2021.			
Objective		Policies	
2.2.7 A range of housing types and densities is available to meet the needs of a diverse range of people and communities.		2.2.7a Residential development provides for a range of household choices and the diversity of cultural and social needs.	
		2.2.7b Higher-density residential development is located within and close to the Central City, suburban and neighbourhood centres, hospitals, tertiary education facilities and parks, open spaces, and other areas of high social amenity.	
Explanation			
Hamilton Urban Growth Strategy acknowledges the need to balance intensification and differing household needs. Cultural diversity is mentioned in Vista. The Environmental Sustainability Strategy advocates for environmentally sensitive design, to mitigate the effects of increased urban density.			
The District Plan identifies a number of areas around the City that are suitable for medium and higher density residential development.			

The Waikato River

Objective	Policies
2.2.8 The health and wellbeing of the Waikato River is restored and	2.2.8a The natural character of the Waikato River, gully system and its margins is preserved and protected

Residential Development

Objective

2.2.6

Sufficient feasible development capacity for housing is provided to meet the targets in the table below: Sufficient feasible, reasonably expected to be realised development capacity for housing is provided to meet the bottom lines in the table below:

Housing bottom linesMinimum Targets (number of dwellings)			
Area	Short to Medium 1-10 years (2017-20262020-2030)	Long term 11-30 years (2027-20462031-2050)	Total
Hamilton City	13,30014,300	23,60028,800	36,90043,100

Explanation

The National Policy Statement on Urban Development Capacity 2016 requires minimum dwelling targets as an objective in the District Plan. These minimum targets are in accordance with the Future Proof Housing Development Capacity Assessment 2017. The National Policy Statement on Urban Development 2020 requires housing bottom lines as an objective in the District Plan. These housing bottom lines are in accordance with the Future Proof Housing Development Capacity Assessment 2021.

Objective	Policies
2.2.7 A range of housing types and densities is available to meet the needs of a diverse range of people and communities.	2.2.7a Residential development provides for a range of household choices and the diversity of cultural and social needs.
	2.2.7b Higher-density residential development is located within and close to the Central City, suburban and neighbourhood centres, hospitals, tertiary education facilities and parks, open spaces, and other areas of high social amenity.

Explanation

Hamilton Urban Growth Strategy acknowledges the need to balance intensification and differing household needs. Cultural diversity is mentioned in Vista. The Environmental Sustainability Strategy advocates for environmentally sensitive design, to mitigate the effects of increased urban density.

The District Plan identifies a number of areas around the City that are suitable for medium and higher density residential development.

Council Report

Item 8

Committee: District Plan Committee
Author: Carmen Norris
Position: Programme Manager
Report Name: General Manager's Report

Date: 15 December 2021
Authoriser: Blair Bowcott
Position: General Manager Growth

Report Status	<i>Open</i>
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Purpose - *Take*

1. To inform the District Plan Committee of matters that need to be brought to the Members' attention, but which do not necessitate a separate report.

Staff Recommendation - *Tuutohu-aa-kaimahi*

2. That the District Plan Committee receives the report.

Executive Summary - *Whakaraapopototanga matua*

3. This report provides updates to Committee Members on aspects of the District Plan Change Programme (DP Programme) for which the Programme Manager and the General Manager Growth have responsibility, including but not limited to:
 - i. Communications and engagement;
 - ii. Programme / project progress against schedule;
 - iii. Infrastructure implications;
 - iv. Emerging issues;
 - v. Risks; and
 - vi. Financial considerations.
4. This report also includes updates on:
 - i. Fairfield-Enderley Urban Development Partnership
 - ii. The Ruakura private plan change
 - iii. the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill (Amendment Bill),
5. A matter of particular significance is the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill (Amendment Bill), which was released in October 2021, and on which Council and the Future Proof Partners have made a submission. This report includes the report from the Environment Committee on the Amendment Bill, which was released on 2 December 2021, following submissions (see **Attachment 1**). The Bill is due to be passed into law on 16 December 2021.
6. Staff consider the decisions in this report have low significance and that the recommendations comply with Council's legal requirements.

Background - *Koorero whaimaarama*

7. On 8 December 2020, the Council approved the formation of the District Plan Committee, to provide and approve broad strategic direction to inform and guide the development of the District Plan amendments programme of work. The Committee's terms of reference were subsequently approved on 4 February 2021.
8. This is the final District Plan Committee meeting for 2021. The confirmed meeting dates for 2022 are:
 - i. 10 March
 - ii. 3 May
 - iii. 16 June
 - iv. 4 August
9. Council is required to notify a plan change on or about 22 August 2022.

Discussion - *Matapaki*

Communications and Engagement

Communications

10. Community engagement has been paused because of both the Amendment Bill and COVID-19 restrictions. However, staff are currently devising an approach to community engagement on both the Area Plan locations and now including a more city-wide focus, assuming the Amendment Bill goes through largely unchanged.
11. Engagement will likely be in the form of drop-in sessions at community markets and high pedestrian areas such malls, where community members can speak to project team members about the Area Plan work and what intensification may look like around other city centres (e.g. Dinsdale). The drop-in sessions will utilise plans and maps and we will encourage people to use Post-It notes to tell what they like, dislike, what's missing and what should be prioritised.
12. Staff are also investigating the ability to use an online survey tool such as Social Pinpoint to elicit similar feedback as we would expect from the drop-in sessions.
13. Staff are still committed to using a Citizen Panel approach to engagement, but we need to consider further when and how this can best be used.
14. The communications and engagement strategy for this engagement is currently being prepared and will be refined over December 2021 and January 2022 ready for launch in February 2022.

Stakeholder engagement

15. All stakeholders have been advised of the Amendment Bill and were provided with a copy of Council's submission. We will follow up once more with stakeholders prior to Christmas, to advise what Council's approach will be, once central Government has made its final decision on the Amendment Bill.
16. How we engage with stakeholders in early 2022 will largely be determined by our response to any changes created by the Amendment Bill and what the final outcome will be.
17. Follow up meetings have occurred with several parties, and more are anticipated before the end of the year (WEL Networks and Property Council).

Tangata whenua engagement

18. Tangata whenua were informed that the sections related to the NPS-UD requirements of the District Plan programme are on hold until the implications of the Amendment Bill are better understood.
19. However, staff will be scheduling an online workshop with THaWK and Ngaati Wairere to discuss cultural considerations related to intensification before the end of 2021.

Heritage

20. Letters have been sent to landowners for both built heritage and notable trees advising that with the change to COVID-19 alert levels, site visits to complete the on-site survey work will now occur during December 2021 and January 2022.
21. Property owners of properties that are no longer being considered as potential built heritage have been advised.

Significant Natural Areas (SNA)

22. We will be sending out letters to all landowners of properties where a potential SNA has been identified through a desktop analysis undertaken by ecologists. These initial letters will be seeking approval to access properties to carry out site assessments required to validate areas of SNA.
23. Following the ground-truthing exercise, further consultation with landowners is planned to occur in March 2022, which will confirm the extent of proposed SNA and provide more detail on what that will mean for landowners.

Te Rapa North Deferred Industrial Area

24. Technical geotechnical and ecological investigations requiring site access are planned to commence in December 2021 / January 2022. Letters to landowners within the proposed structure plan area will be sent out to introduce the plan change and request approval for property access where required.

Programme updates

Tranche 1 progress against deliverables

25. On 8 December 2020 the Council approved the approach and scope for making changes to the District Plan in August 2022.
26. This involved undertaking a plan change, referred to as Plan Change 12, to give effect to the National Policy Statement on Urban Development (NPS-UD), which would be combined with several other topics in the Council's work programme.
27. On 19 October 2021, the Enabling Housing Supply and Other Matters Amendment Bill (Amendment Bill) was introduced by the Government. It seeks to rapidly accelerate the supply of housing by enabling greater intensification in urban areas.
28. The Amendment Bill requires councils to undertake a plan change to incorporate specific Medium Density Residential Standards (MDRS) using a streamlined planning process (ISPP), which removes some consultation requirements, has legal effect from the date of notification in most cases, and removes any appeal rights.
29. Only some of the topics covered under the original 'Super' Plan Change 12 can be managed through the ISPP process. The remainder will still need to go through a Schedule 1 process under the Resource Management Act, meaning that multiple plan changes will now need to be notified.

30. The Amendment Bill will not be finalised until the 16 December 2021. However, given the tight timeframes, splitting 'Super' Plan Change 12 into Plan Changes 9, 12, 14 and further plan changes are now proposed and discussed in the accompanying report in the public excluded part of the agenda for this meeting and referenced in the table in Paragraph 34 below.
31. One important change to the work programme because of the Amendment Bill is the decision to keep the 'qualifying matters' together. This means that historic heritage and biodiversity will now be combined into one plan change (Plan Change 9) and notified at the same time as the intensification plan change (Plan Change 14).
32. Although the notification timeframes and number of plan changes has changed, the programme of work to inform these remains largely unchanged, apart from two new workstreams added to inform the Amendment Bill:
- centres assessment (part of the area plan project and discussed in more detail in the public excluded report); and
 - historic heritage areas (part of the historic heritage and biodiversity plan change).
33. The Enderley/Fairfield area plan project is being undertaken by Kāinga Ora and the Fairfield-Enderley Urban Development Partnership and is not part of Council's District Plan Programme. It is reported on separately in Paragraphs 44 - 55.
34. Tranche 1 of the programme now consists of 9 projects each with its own milestones, budget and risks as detailed below:

	Project	Description	Progress against timelines/milestones	Key Project Risks
i.	Plan drafting (will inform PC12 & 14)	Investigations into various topics to inform the plan change programme-MDRS, NPS-UD, climate change, vision & strategy, stormwater management, flood hazard management, water demand management	Delays in drafting and evidence gathering due to new enabling housing bill. Understanding requirements under Enabling Housing Bill and revising programme after release in December will add at least a month to the programme. Unlikely to meet 20 August 2022 Notification deadline.	Unknown outcome of enabling housing bill, Capacity issues during lock down, delays in programme from topic leads
ii.	Historic heritage & biodiversity (PC9)	Identify and schedule-built heritage, reassessment of existing scheduled trees	Desk top research and filtering completed. Site visits will occur late Nov-mid Dec. Inventory drafting on track.	Inability to undertake site visits due to COVID alert levels
		Investigate and identify Maaori sites of significance and all archaeological sites	Discussion and drafting of planning provisions on track. 3 of 4 planned hui held. Final hui in Dec2021 to confirm cultural direction of planning provisions. Consultants on track to complete draft plan provisions, mapping and s.32 by late Feb 2022.	The inability to discuss planning provisions with Iwi; archaeological - no budget to include these recently NZAA sites into the inventory
		Notable trees Reassessment of existing scheduled trees using Standard Tree Evaluation Method (STEM)	With the relaxing of covid restrictions consultants will undertake tree assessment work in January 2022. Allowing time for the completion of the assessment sheet in late Feb2022.	Inability to undertake site visits due to COVID alert levels
		Investigate and identify	Assessment and mapping on	Inability to

		Historical Heritage Area (HHA) across the city (new workstream as part of PC9)	track for four Area Plan areas (Chartwell, Eastern Hamilton, Five Cross-Roads, Central City North). Technical report on progress. Stage 2 includes additional works that extend to rest of the city.	undertake site visits due to Alert Levels. Additional work required due to extent of areas covered across the city.
iii	SNA/biodiversity (PC9)	Technical review and identification of SNA including significant habitat of indigenous fauna	Consultants on-track to meet delivery stages for phase 1 desktop assessment. Initial landowner letters two weeks behind original timeline.	Inability to undertake site visits due to Alert Levels. Additional work required due to extent of areas covered across the city.
iv.	Development Plan provisions (further plan changes)	Preparing a plan change to bring the District Plan in line with Environment Court decision on development plans.	On track	Dependent on timeframes and resources from PC12/14 in terms of report templates and timelines
v.	Te Rapa North (Further plan changes)	Removal of deferred status of industrial land in Te Rapa North	Technical work delayed due to COVID and prioritisation of other projects.	<p>Consultant technical inputs and engagement with wider HCC team delayed due to COVID and workloads</p> <p>Progress with ICMP completion is slow</p> <p>Ecological surveys not being able to be undertaken until Dec 2021-Feb 2022.</p> <p>Landing an approach to infrastructure and any staging/ trigger provisions.</p>
vi	Area plans (Will inform PC14)	Prepare Area Plans for Chartwell, Eastern Hamilton, Five Cross-Roads, Central City North to provide recommendations for DP Change 12, placemaking, and infrastructure	Transport and Three waters baseline constraints and opportunities finished. Transport concepts in draft state. Land use scenarios full draft nearly complete Preliminary recommendations being made. Programme board authorised a scope reduction due to the Housing supply amendment bill that reduces detail of infrastructure work Full draft reports prior to Christmas break, may lack some infrastructure details	Covid-19 level changes impact programme and cost Approaches to infrastructure for stormwater and transportation require private land takes that cannot yet be substantiate with technical evidence RMA amendment uncertainty
		Centres approach – new workstream under the area plan project looking at how the housing supply bill changes the intensification	Scope and programme in development now - project must finish in April 2022 or earlier. Project management plan update due to DP	<p>Housing supply bill changes form in final law.</p> <p>Timing means very</p>

Item 8

		required by the NPS-UD across the city in relation to commercial centres. Will make zoning recommendations for the district plan. Strongly relates to HUGS and MSP transport work underway now and will influence infrastructure master plans.	programme board for sign off in Dec 2021.	limited engagement and stakeholder involvement can be accommodated. Misalignment with other work programmes (e.g. HUGS etc) Personnel resources to deliver the work
vii	Carparking Mode shift (PC12)	Prepare 3 plan changes to: PC A: Remove requirements for a minimum number of car parks (to be completed by 20 February 2022) PC B: Retain requirements for accessible car parks PC C: Support transport mode shift.	PC A is behind the original schedule but will be completed on time. PC B is on schedule. PC C is on schedule.	Slippage against schedule
viii	HBA Assessments	Delivery of three pieces of work: i. Re-base of our housing capacity assessment based on the proposed land use from areas plans and for "rest of city" ii. Land use survey – site by site classification to understand types of businesses operating in Hamilton's commercial areas iii. Centres assessment – assessment of the role and function of commercial centres and any changes required due to residential land use change	One month delay due to staging discussions	Staging does not meet requirements for NPS-UD Policy 3 and need to encourage greater housing land supply for smaller dwelling typologies Staging response will need to prioritise those centres for assessment over citywide surveys
viii	Inclusionary zoning (Further plan changes)	Investigate options and then develop provisions to include inclusionary zoning policies in the District Plan	Option analysis with consultants underway plus sample development to test feasibility.	Uncertainty regarding Elected Member's desired approach Complexity and potential comms risk from development community

35. Specific deliverables for Tranche 1 are:

- i. New areas of the city are rezoned for intensification;
- ii. Heritage buildings, Maori sites of significance & archaeological sites are identified, recognised and maintained;
- iii. Protection of Hamilton's notable trees;
- iv. New areas are identified for biodiversity protection;
- v. Revised parking standards;

- vi. Implementation of a housing strategy requirement for more affordable housing in the city;
- vii. Plan provisions to support options for mode shift;
- viii. Climate change assessment;
- ix. Infrastructure needs and triggers; and
- x. Plan provisions to support water demand management.

Schedule

36. Overall, the programme is running behind the current schedule due to COVID-19 lockdown restrictions preventing face-to-face stakeholder engagement and site visits to inspect trees. Providing there are no further lockdowns, work can continue as planned.

Infrastructure implications

37. Infrastructure issues are covered in District Plan Change Programme report in the public excluded part of this meeting.

Emerging issues

38. As work progresses and investigations get underway, issues are emerging that sit outside the current scope of the programme and may need to be considered.
39. Once such issue is the Amendment Bill that was released on the 19 October 2021.
40. Council and the Future Proof Partners have made a [submission on the Amendment Bill](#) and staff have reviewed the implications of the proposed legislation on the District Plan work programme scope, timeframes and risks.
41. The Environment Committee report on the Amendment Bill was received on 2 December 2021 (see **Attachment 1**).
42. Should the Amendment Bill remain largely unchanged once it is passed into law, there is a significant risk that the District Plan team will struggle to meet the August 2022 timeframe for notification.
43. The Bill is due to be passed into law on 16 December 2021, the day after this committee meeting. In the public excluded report to this Committee, staff recommend that approval for any further changes to the programme required following the passing of the Bill into law be delegated to the General Manager Growth and the Chair of the District Plan Committee. Should the delegation be exercised, this will be reported back to Elected Members by way of an information update with a full update supplied at the next District Plan Committee meeting.

Fairfield-Enderley Urban Development Partnership update

44. Kāinga Ora and Council staff continue to work on the establishment of the Fairfield-Enderley Urban Development Partnership.
45. The Partnership brings together people and organisations who have significant interest and who are working towards achieving the best outcomes for the communities of Fairfield and Enderley. The Partnership consists of Kāinga Ora, Hamilton City Council, mana whenua, iwi, other partner agencies and the community, with various representation across the Partnership steering committee, working groups, and as stakeholders.
46. The aim of the Fairfield-Enderley Urban Development Partnership is to:
- i. provide a framework to help enable good quality, affordable housing choices that meet diverse needs of the Fairfield-Enderley community;
 - ii. support improved access to jobs, amenities, and services; and

- iii. guide investment in assets and infrastructure that provides opportunities for people and communities to improve their social, economic and cultural wellbeing.
47. Staff have requested guidance from Te Ngaawhaa Whakatupu Ake for the appropriate mana whenua representation on the steering committee and working groups.
 48. Kāinga Ora and Hamilton City Council have committed to preparing the Fairfield-Enderley Partnership Plan by March 2022.
 49. The Fairfield-Enderley Urban Development Partnership Plan will:
 - i. outline the needs and aspirations of the Fairfield and Enderley communities and identify what role (i.e. investment, leadership, placemaking and community development activity) Kāinga Ora, Hamilton City Council and other partners will contribute to delivering on those aspirations; and
 - ii. provide a framework that will inform an ongoing programme of work for the Fairfield-Enderley area led by an enduring Partnership.
 50. The Partnership will also support the establishment of an over-arching, community-led programme of sustainable development initiatives which align with the [Waikato Wellbeing Project](#). This is considered critical to the enduring wellbeing of our Fairfield and Enderley communities and will drive the culturally responsive systemic changes these communities need to thrive.
 51. Council submitted an expression of interest to Kāinga Ora's Infrastructure Acceleration Fund (IAF) combining Tainui Group Holdings' (TGH) greenfield Ruakura development with the significant brownfield intensification opportunities across the adjacent Fairfield and Enderley communities.
 52. Although all criteria set by Kāinga Ora were met, this IAF expression of interest was unsuccessful. As with much of Hamilton's brownfield areas, the significant funding required to give effect to the NPS-UD and enable sustainable intensification remains unresolved.
 53. The stormwater funding included in the IAF bid included purchasing a lot of land to develop modern stormwater solutions and further engagement is required with both Kāinga Ora and other experts to determine consentable solutions.
 54. The implications of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill on the Partnership are still being considered. An update to the DP Programme Manager will be provided as soon as any effect on the District Plan Programme and Area plans are known.
 55. Staff are exploring the use of Kāinga Ora's powers under the Urban Development Act 2020, including the development of a Specified Development Project, which would enable alternate funding tools to support the infrastructure shortfalls identified by Council.

Ruakura private plan change

56. As noted in the previous report to the District Plan Committee, Ruakura rezoning is being funded by Tainui Group Holdings (TGH) and managed by an external consultant, Grant Eccles.
57. The MOU formalising the Private Plan Change (PPC) approach and the support Council will provide to TGH in preparing the PPC has been finalised and will be presented to the Strategic Growth Committee on 2 December 2021 for approval.
58. Following approval of the MOU, staff will enter discussions with TGH on a revised Private Developers Agreement (PDA) to take account of the zoning changes that are proposed.
59. Part of the PDA will address the costs of modelling of the effect of the PPC on three waters infrastructure serving the Ruakura area.

60. Consultant Grant Eccles is liaising on behalf of and in conjunction with Council units with TGH. Thus far, a programme for developing the PPC has been agreed along with a structure for the planning provisions that will be sought through the PPC.
61. The range of specialists' reports that will be necessary to support the PPC has been confirmed and TGH has commissioned the relevant experts to begin work.
62. A regular meeting scheduled with Waikato Regional Council staff is being established to ensure that the various units of WRC are informed about the PPC and can contribute in a timely manner as required, particularly in terms of public transport provisions and stormwater treatment requirements.

Risks - *Tuuraru*

63. Risks are currently tracked at both project and programme level. Refer to the table in Paragraph 34 for the project risks. Key programme risks are outlined below. Risks will be reviewed and updated once the Amendment Bill is passed into law.

Category	Title	Description
Communications and Engagement	Lack of community buy-in	Due to lack of community buy-in there is negative community and stakeholder feedback leading to not getting the approval from elected members to notify, or a delayed notification or a re-work at extra cost. Note comms risk around PC9 and requirement to consult with individual property owners.
Communications and Engagement	Lack of political buy-in	Due to lack of political buy-in there is negative feedback or changes in project scope leading to delays in notification, and/or District Plan not being fit for purpose, and/or poor infrastructure outcomes.
People and Health and safety	Workload	High workload, condensed timeline and lack of staff availability or experience leading to staff wellbeing issues and burnout, delays in notification, and/or District Plan not being fit for purpose, and/or poor infrastructure outcomes.
Scope	Scope for infrastructure planning is not clear at the start of the Programme	Unclear scope for infrastructure planning upfront (due to flexibility of scenarios) causing incorrect assumptions leading to District Plan not being fit for purpose and resulting in poor infrastructure outcomes.
Strategic	Misalignment between enabled land use and consequential infrastructure needed	Statutory requirements to provide for density cannot be supported by either infrastructure capacity or ability to service, or to secure necessary funding to realise the proposed land use pattern resulting in no development taking place in key areas.
Programme schedule	Delays in programme delivery	Because of the condensed timeframes and interdependencies between projects within the programme, we may get project delays resulting in a delay to notification. Covid lockdown causing project delays
Strategic	Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill	New bill will require rework of programme deliverables and timeframes

Financial Considerations - *Whaiwhakaaro Puutea*

64. The District Plan Programme is funded through the 2021-31 Long Term Plan. The overall budget for the 10-year period is \$13 million.
65. A quarterly financial update was presented in the November 2021 report. The next update will be in March 2022.

Legal and Policy Considerations - *Whaiwhakaaro-aa-ture*

66. Staff confirm that this matter complies with the Council's legal and policy requirements.

Wellbeing Considerations - *Whaiwhakaaro-aa-oranga tonutanga*

67. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
68. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report.
69. The recommendations set out in this report are consistent with that purpose.
70. There are no known social, economic, environmental or cultural considerations associated with this matter.

Significance & Engagement Policy - *Kaupapa here whakahira/anganui*

71. Having considered the Significance and Engagement Policy, staff have assessed that the report has a low significance and no engagement is required.

Attachments - *Ngaa taapirihanga*

Attachment 1 - Environment Committee report - Resource Management Enabling Housing Supply and Other Matters Amendment Bill - December 2021



Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill

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Report of the Environment Committee

December 2021

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Hon Eugenie Sage
Chairperson

Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill

Recommendation

The Environment Committee has examined the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill.

We recommend by majority that the bill be passed, and that the House take note of our proposed amendments in this report.

Because of the tight timing for our report back to the House, we have not included our recommendations in a revision-tracked version (RT) of the bill. We would expect the House to have the opportunity to consider our recommendations through a revision-tracked Supplementary Order Paper (SOP) at the Committee of the whole House stage. We have asked the responsible Ministers to provide the committee with a draft version of such an SOP beforehand. We strongly recommend that the RT SOP be publicly available as soon as possible.

1 Introduction

About the bill

The Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill seeks to rapidly accelerate the supply of housing in urban areas where demand for housing is high. It would apply to territorial authorities in New Zealand's larger cities: Auckland, and greater Hamilton, Tauranga, Wellington, and Christchurch. The bill would amend the Resource Management Act 1991 (RMA) to require "tier 1" councils to set more permissive land use regulations to enable greater housing intensification.

The bill would do this in two main ways:

- It would introduce a streamlined process to enable tier 1 councils to implement the National Policy Statement on Urban Development (NPS-UD) more quickly.¹ The new intensification streamlined planning process (ISPP) would be based on the streamlined planning process in the RMA.
- The bill would also apply medium density residential standards (MDRS) in all tier 1 urban environments. They would enable medium density housing (up to three dwellings of up to three storeys per site) to be built as of right across more of New Zealand's urban environments.

¹ Tier 1 urban environments are Auckland, Hamilton, Tauranga, Wellington, and Christchurch. Fourteen tier 1 authorities are responsible for all or part of those tier 1 environments.

For tier 1 territorial authorities,² plan changes or plan variations that implemented the intensification policies and incorporated the MDRS would be known as intensification planning instruments (IPI).³ The bill would require tier 1 territorial authorities to notify IPIs by 20 August 2022. An independent hearings panel (IHP) would be appointed to hear public submissions and make recommendations to a relevant territorial authority on its IPI. If the council did not agree with the IHP's recommendations, the Minister for the Environment would make a final decision.

The medium density residential standards (MDRS) would set a minimum level of development that tier 1 councils must allow in current and future residential zones. Some qualifying matters would allow councils to limit the application of the MDRS, if evidence supports this. Where qualifying matters have been addressed and finalised through a planning process, and the district plan is operative, they would still apply. We note that qualifying matters are a mechanism that can reduce the application of the MDRS, and we discuss these later in our report.

The bill should be passed with amendment

We recommend by majority that the bill be passed. In our report, we propose amendments to the bill.

Because of the tight timing for our report back to the House, and the nature of the amendments we propose, there has not been time to include our recommendations in a revision-tracked version of the bill. We would expect the House to have the opportunity to consider our recommendations through a Supplementary Order Paper (SOP) at the Committee of the whole House stage. We have asked the responsible Ministers to provide the committee with a draft version of such an SOP beforehand, to enable the committee to consider whether it incorporates our proposed amendments.

Some of us remain concerned that the shortened time frame has prevented the usual full scrutiny of the bill, and consideration of whether there are any implementation issues.

We acknowledge the challenges of the short time frame for public submissions, and appreciate the expertise presented in submissions and hearings presentations. These have contributed to changes in the bill.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House. Some of us remain concerned about the absence of a right of appeal to the Environment Court when a council does not accept the recommendations of the independent hearing panel, and a decision instead being made by the Minister for the Environment.

² Throughout this report, we use the term "councils" to refer to territorial authorities.

³ We note that in our report we propose broadening the scope of intensification planning instruments (IPI).

2 Summary of proposed amendments to the bill

Summary of main amendments proposed

We make the following recommendations by majority to the House:

Intensification streamlined planning process (ISPP)

1. That the scope of the ISPP be broadened, so that in addition to the MDRS and NPS-UD, and financial contribution provisions, the IPI could also be used to:
 - change provisions in plans (including objectives, policies, rules, standards, and zones) that are consequential and complementary to the MDRS and NPS-UD intensification policies
 - enable provision of papakāinga.⁴

For the avoidance of doubt, the ISPP could include provisions relating to subdivision, fences, earthworks, district-wide matters, infrastructure, qualifying matters, stormwater management (including permeability and hydraulic neutrality), provision of green space, and provision for additional community facilities and commercial services.
2. That the link between the MDRS and the NPS-UD be clarified. Both the MDRS and the NPS-UD need to be implemented via the IPI. Where the NPS-UD is applied to a “relevant residential zone”, the underlying zoning will include the MDRS (at a minimum) and therefore any greater level of intensification (e.g. a six storey building) will likely require resource consent as a restricted discretionary activity.
3. That the bill clarify that existing plan provisions continue to have effect provided they are not inconsistent with the bill.
4. That the composition of the independent hearings panels must include at least one member with the knowledge, skills, and experience of tikanga Māori, whose appointment should be made in consultation with relevant iwi authorities.⁵
5. That the bill clarify that, if a qualifying matter has already been through a plan-making process, significant evidence would not need to be provided and the matter would not be reconsidered through the ISPP. The qualifying matter could be carried across, and council's assessment would focus on how to accommodate the qualifying matter through appropriate heights and densities. However, this would not apply to the “other matter” category of qualifying matters.

Medium density residential standards (MDRS)

6. That the seven MDRS included in the bill as introduced be amended as set out in this report.
7. That new MDRS standards (regarding glazing and landscaping) be inserted into the bill.
8. That the MDRS apply to all relevant residential zones in tier 1 council plans, rather than “urban environments”. Our expectation is that the intensification instruments will provide for the non-residential activities that residents need. We note our understanding that the

⁴ We consider that papakāinga should include housing on Māori land under the Te Ture Whenua Māori Act 1993, as well as general land owned by Māori.

⁵ We note that section 34A of the RMA already provides for local authorities to consult iwi when appointing a commissioner with an understanding of tikanga Māori.

RESOURCE MANAGEMENT (ENABLING HOUSING SUPPLY AND OTHER MATTERS) AMENDMENT BILL

NPS-UD enables councils to use the ISPP process to provide for commercial activities, such as shops, to service the needs of new residential dwellings.

9. That the bill clarify that if a council wanted its plans to be more enabling of development, then it could omit any of the standards in the MDRS when they adopted it in its plans. If a council does this, it could not regulate for that effect in its plan.
10. That objectives and policies for the MDRS be included in the bill for councils to adopt.
11. That the MDRS apply to land designated for schools so that schools could also incorporate the standards.
12. That the bill clarify which parts of plans would have immediate legal effect; namely, that only the specified standards in the MDRS and the MDRS objectives and policies would have immediate legal effect.
13. That the bill clarify that councils could modify the MDRS and NPS-UD intensification policies to accommodate qualifying matters where such matters are present.
14. That the bill include Te Ture Whaimana o Te Awa o Waikato (Vision and Strategy for the Waikato River) and other treaty settlement legislation that provides for iwi participation, if necessary in order to give effect to it, as a qualifying matter for the MDRS and NPS-UD intensification policies.

Tier 2 and tier 3 councils

15. That the Minister for the Environment be required to consult the Minister for Māori Crown Relations: Te Arawhiti, as well as the Minister of Housing, before directing a tier 2 council through an Order in Council (OIC) to implement the MDRS and give effect to the NPS-UD via the ISPP (noting that the bill as introduced would already require the Minister for the Environment to consult the Minister of Housing).
16. That the bill clarify that if a tier 2 council is included into the legislation via an OIC they need to prepare an IPI and go through the ISPP to: incorporate the MDRS, give effect to the NPS-UD, and if necessary change their financial contributions policies and make any consequential and complementary changes to their plans. The bill as introduced requires that tier 2 councils included via the OIC before 21 March 2022 would need to do this, but if the OIC was made after 21 March 2022 then tier 2 councils were directed only to incorporate the MDRS. Without such an amendment, this would result in those tier 2 councils needing to carry out multiple plan changes.
17. That the bill allow any tier 3 council (as defined by the NPS-UD) to ask the Minister for the Environment to direct it to implement the MDRS and NPS-UD via the ISPP. The Minister for the Environment, before approving or declining the request, should determine whether the relevant tier 3 council is experiencing acute housing need and consult the Minister for Māori Crown Relations: Te Arawhiti, as well as the Minister of Housing, before directing a tier 3 council through an OIC. The OIC for this would specify nomination dates for the resulting IPI.

Transitional provisions—existing plan changes

18. That the transitional provisions relating to existing plan changes and full plan reviews be redrafted, and that the current requirement to withdraw proposed district plans or private plan changes when the hearing has not been completed by 20 February 2022 be removed, instead allowing for “variations” in most cases.

 RESOURCE MANAGEMENT (ENABLING HOUSING SUPPLY AND OTHER MATTERS) AMENDMENT BILL

- Councils that have already notified a proposed district plan at the time of the bill's commencement should not be required to modify their operative plans, and should instead use the ISPP to vary their proposed district plans to incorporate the MDRS and give effect to the NPS-UD intensification policies.
- Councils that have notified plan changes at the time of the bill's commencement (including private plan changes that councils have adopted or accepted) should notify a variation to the plan change to ensure that it incorporates the MDRS. They should notify the variation alongside their IPI and the plan change will be able to continue.
- We note that the bill as introduced provided, from the time of enactment, councils with discretion to reject a private plan change request that does not incorporate the MDRS, or work with the requestor under Schedule 1 processes to modify the request to incorporate the MDRS.
- A new transitional provision would enable councils to also choose to accept or adopt a private plan change request that proposes to adopt all the zone provisions of a relevant residential zone. In this instance, the council's IPI will incorporate the MDRS into relevant residential zones within scope of the private plan change.

Subdivisions

19. That the bill be amended to clarify that:

- Subdivision would be a controlled activity for existing dwellings that meet the MDRS, new dwellings that are permitted under the MDRS, or dwellings that have been approved through a resource consent.
We note that the bill does not change any of the existing plan provisions regarding subdivision, except to enable application of the MDRS.
- Subdivision consent for residential units in accordance with the MDRS or an associated land use consent must not be publicly notified or given limited notification.

We note that the bill does not prescribe a minimum size for a site, but we were advised that the practical effect of the MDRS (such as the standard for site coverage of no more than 50 percent) would prevent sites from being too small.

Financial contributions

20. That rules incorporating or updating financial contributions provisions in proposed plans that go through the ISPP should not have immediate legal effect. Instead, financial contributions provisions should be subject to the consultation requirements in the ISPP before coming into effect.

Further amendments

21. That further amendments be made to the bill as set out in this report, as well as minor, technical, and consequential amendments as set out in departmental advice.

3 Discussion of issues and proposed amendments

Intensification streamlined planning process (ISPP)

Clause 8 would insert new subpart 5A into the Act, providing for intensification planning instruments (IPI) and the intensification streamlined planning process (ISPP). Clause 14 would insert new Part 6 into Schedule 1, including further provisions regarding the intensification streamlined planning process.

Scope of intensification planning instruments (IPI)

Clause 4 would amend section 2 to define an “intensification planning instrument” (IPI) as a change to a district plan or a variation to a proposed district plan. The change must be for the purpose of incorporating the MDRS. As introduced, the bill allowed for councils to give effect to the intensification policies of the NPS-UD into plans⁶ and amend or include provisions relating to financial contributions. We recommend that councils must give effect to the intensification policies of the NPS-UD in plans.

Clause 8, new section 80G, sets out the limitations that would apply to IPI and ISPP. New section 80G(1)(b) provides that a territorial authority could only use the IPI under new sections 77F(2), 77K(1), and 77P. Those sections relate to incorporating MDRS into plans, the duty of territorial authorities to incorporate other intensification policies into plans, and the review of financial contribution provisions.

We consider that the scope of what could be included in an IPI is too narrow, and recommend broadening it. We propose an amendment to enable councils to amend or develop provisions that support or are consequential on the MDRS and NPS-UD. This could include objectives, policies, rules, standards, and zones. It could also include provisions that are used across a plan relating to subdivision, fences, earthworks, district-wide matters, infrastructure, qualifying matters,⁷ stormwater management (including permeability and hydraulic neutrality), provision of open space, and provision for additional community facilities and commercial services.

Some of us consider that developers who are proposing private plan changes should have access to the ISPP.

Papakāinga housing

Several submitters sought clarity on whether papakāinga housing provisions could be incorporated through the IPI and ISPP. We agree that councils should be able to use the ISPP for implementing papakāinga provisions and recommend amending the bill accordingly. We were advised some councils restrict papakāinga housing to Māori land owned under Te Ture Whenua Māori Act 1993. We encourage councils to provide a more enabling approach to papakāinga housing on a variety of different types of Māori owned land.

⁶ These are policies 3 and 4 for tier 1 councils and policy 5 for tier 2 councils.

⁷ We discuss qualifying matters in more detail later in our report.

Qualifying matters

The bill defines a “qualifying matter” as a matter referred to in new sections 77G or 77L. Those sections relate to making the MDRS or intensification policies less permissive if certain qualifying matters are present. Several submitters expressed concern that the bill might not allow the IPI to be used to implement measures to restrict density where a qualifying matter has been identified. We recommend amending the bill to make it clear that implementing measures to restrict density where a qualifying matter has been identified would be within the scope of the IPI.

Incorporating medium density residential standards into plans

Proposed new section 77F would require the MDRS to be incorporated into district plans. We recommend inserting a provision into new section 77F to make it clear that existing relevant provisions in plans that do not conflict with the MDRS or the implementation of the NPS-UD would continue to have effect. Namely, this would provide for district-wide matters, such as stormwater management, waterbody setbacks, and subdivision of land.

Regional policy statements

We understand that the ISPP has been designed for changes to territorial authority plans, rather than regional policy statements and regional plans. However, we note that specific objectives or policies in regional statements relating to density may sometimes conflict with the application of the MDRS and/or the NPS-UD. We recommend amending new section 77J to make it clear that provisions in regional policy statements that are inconsistent with the MDRS or the NPS-UD would not apply in decisions about consenting or district plan drafting. For example, policies that encourage single house typology and zoning would be inconsistent with the MDRS and NPS-UD.

Directions from the Minister

Proposed new section 80I would enable the Minister for the Environment to make directions to one or more councils setting out certain requirements. They include the number of panel members to be appointed to an independent hearings panel, as well as their level of experience and qualifications. The requirements could also include the time period within which the council must complete certain stages of the ISPP, and matters that they must report to the Minister.

We understand that the content of the direction is intended to be relevant for the whole process. We recommend amending new section 80I and new clause 104 of Schedule 1 to make it clear that the direction should be considered throughout the ISPP and that decision-makers should have regard to the content of the direction.

Iwi and Māori consultation

The requirement to consult with iwi authorities on the IPI during the ISPP is the same as that currently in the RMA for a standard plan change process. We propose amendments below to ensure that tikanga expertise is provided for on independent hearings panels. We note the consultation requirements for preparing a plan under clause 3 and clause 4A of Schedule 1 of the RMA would not be affected by the bill.

Appointment and expertise of independent hearing panels

Proposed new section 96 provides that territorial authorities would need to establish independent hearing panels (IHP) and delegate necessary functions. An IHP would conduct a hearing of submissions on an IPI, and make recommendations to the relevant territorial authority about it.

As introduced, new section 96 does not contain a requirement for IHPs to have any members with tikanga expertise (although we note that section 34A of the RMA would be relevant to a council in delegating its functions). We recommend amending section 96 to require that at least one member have this expertise, with their appointment to be made following consultation with relevant iwi authorities. The Minister's direction would also be able to specify the number of IHP members, and their experience and qualifications.

We note advice that the bill would not prevent multiple territorial authorities from deciding to appoint a single IHP to conduct a joint hearing.

Matters that the independent hearing panel could consider

Proposed new section 99 specifies that an IHP would need to make recommendations to the territorial authority on the IPI. Under new section 99(2)(a), the IHP would not be limited to making recommendations within the scope of submissions made on the IPI. New section 99(2)(b) provides that the IHP could also make recommendations about any other matters relating to the IPI identified by the panel or any other person during the hearing.

We recommend amending new section 99(2)(b) to make it clear that any recommendations not in submissions would need to be related to a matter identified by the panel or another person during the hearing. We consider that this would be necessary for transparency and to ensure that a public record was available of any matters considered by the IHP.

Medium density residential standards (MDRS)

Requirement to incorporate the MDRS

Clause 7 of the bill as introduced, new section 77F, would require tier 1 territorial authorities to apply the medium density residential standards (MDRS) to every relevant residential zone in an urban environment.

Urban environments

Clause 7, new section 77E, would specify that an urban environment is any area of land that:

- 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.

We agree with submitters that, in practice, the criteria above would likely be difficult to apply, and would cause uncertainty about where the MDRS are intended to apply. We recommend that the MDRS does not apply to all towns with a population of less than five thousand people at the 2018 census, and offshore islands.

Objectives and policies to support the MDRS

As introduced, the bill does not contain any provisions that expressly state the objectives and policies of the MDRS. Some submitters suggested that it would be preferable to include objectives and policies for the MDRS in the legislation, to provide territorial authorities with more guidance and ensure a consistent approach to district plan-making.

We agree, and recommend including the following objectives and policies for the MDRS in a schedule to the bill.

District plan objectives:

- District plan 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.
- District plan objective 2: The zone provides for a variety of housing types and sizes that respond to housing need and demand; and the neighbourhood's planned urban built character of predominantly three-storey buildings.

District plan policies

- District plan 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.
- District plan policy 2: Apply the MDRS across all the relevant residential zones⁸ of the district plan except in circumstances where a qualifying matter is relevant. Qualifying matters include 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.
- District plan policy 3: Encourage development to achieve attractive and safe streets and public open spaces, including by providing for passive surveillance.
- District plan policy 4: Require housing to be designed to meet the day-to-day needs of residents.
- District plan policy 5: Provide for developments not meeting permitted activity status, while encouraging high-quality developments.

We also recommend an amendment that requires territorial authorities to incorporate the objectives and policies into their respective district plans. These objectives and policies would have immediate legal effect when a council notifies their IPI.

Activity status and notification of consents

The MDRS would enable up to three residential units per site as a permitted activity. A resource consent would not be required, as long as the building standards in the bill were met. If the development was for more than three units, or they did not comply with the MDRS in the plan, then the development would be a restricted discretionary activity that requires a resource consent. However, the applications must not be publicly notified, except where a

⁸ We note "relevant residential zones" would exclude towns where the population of the town was under five thousand people at the 2018 Census, and offshore islands.

council needed to assess the effects of the breaches of building standards (which we suggest renaming as “density standards”), the application could be subject to limited notification.

We note that where the NPS-UD is implemented in a residential zone at a scale more intensive than permitted by the underlying MDRS, then activities will require a consent on the basis that they are a restricted discretionary activity.

We note that the bill would not affect existing plans’ provision for mixed use, non-residential activities that would allow home-based businesses within parameters.

We note that, as part of implementing the bill, the Ministry for the Environment and Te Tūāpapa Kura Kāinga—Ministry of Housing and Urban Development would begin developing early next year, as a matter of priority, a national medium-density design guide, in consultation with local government and stakeholders.

Subdivision requirements

Clause 5 of proposed new Schedule 3A would require any subdivision provisions in plans, including rules and standards, to be consistent with the level of development permitted by the MDRS under the other provisions of new Schedule 3A. Providing for subdivision would enable development to occur at the anticipated level from the time the MDRS comes into force.

We consider it unclear what activity status should be afforded to a subdivision for it to be consistent with the level of development permitted. Given the technical nature of developing subdivisions, we consider that permitted activity status would not be appropriate, as it would not require a resource consent.

A controlled activity status would allow councils to have oversight and control of subdivision development. Councils would be able to impose conditions to ensure property titles were arranged lawfully, and that necessary infrastructure was provided.

We recommend the following amendments to the bill regarding subdivision:

- Subdivision would be a controlled activity for: existing dwellings that meet the MDRS, new dwellings that are permitted under the MDRS, or dwellings that have been approved through a resource consent.

We note that the bill does not change any of the existing plan provisions regarding subdivision, except to enable application of the MDRS.

- Provision for vacant lot subdivision should be removed so that resource consent of four or more units cannot be side-stepped by splitting an existing section into two.
- Subdivision consent for residential units in accordance with the MDRS or an associated land use consent must not be publicly notified or given limited notification.

The density standards in the bill as introduced

The MDRS would include seven building standards to control the bulk and location of buildings, and manage the internal amenity of the site. We suggest that the term “building

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standards” should instead be changed to “density standards”, to avoid confusion with requirements under the Building Act 2004. The standards are set out in Part 2 of proposed new Schedule 3A of the RMA, to be inserted by Schedule 1 of the bill. Submitters suggested a variety of changes to the standards. We have considered them, and propose changes to four of the seven standards, as set out below.

Density standard	Our proposed change
Building height (clause 9 of new schedule 3A)	We do not propose any changes.
Height in relation to boundary (clause 10 of new schedule 3A)	<p>We recommend that the height in relation to boundary should be reduced to 5 metres at side and rear site boundaries (not front / road boundaries), plus 60 degrees recession plane. We were advised that this would improve the balance between access to sunlight and enabling three storey dwellings in practice.</p> <p>Some of us consider that a further reduction of height in relation to boundary (or a change in the recession plane) may improve the balance between the desire for additional housing and provision of sunlight and amenity. However, we wish to better understand the impact any reduction would have on the number of units per site, prior to recommending any further reduction.</p> <p>Some others of us support the adoption of the Auckland Unitary Plan's standards in this regard.</p>
Setbacks (clause 11 of new schedule 3A)	<p>Submitters suggested changes to the setback requirements, with notable themes being encouraging protection of existing trees and improving interface with the street.</p> <p>We recommend that the front yard setback be reduced to 1.5 metres to improve the interface with the street.</p> <p>We recommend that the bill be amended to clarify that existing setbacks for water bodies, the coast, and infrastructure must be retained.</p>

Building coverage (clause 12 of new schedule 3A)	We do not propose any changes.
Impervious area (clause 13 of new schedule 3A)	We recommend deleting this building standard from the MDRS, with the subject matter of the standard instead being dealt with as a district-wide matter for councils to determine.
Outdoor living space (per unit) (clause 14 of new schedule 3A)	<p>We recommend increasing the outdoor living area for a ground unit to 20 square metres.</p> <p>Later in our report, we recommend that developers be allowed to group outdoor space requirements for units so that they can be used communally, rather than be provided for per unit. The outdoor living area should be at least the cumulative total of the individual spaces.</p> <p>We recommend allowing developers to choose to provide outdoor space as grouped for communal use, rather than only provide outdoor space per unit. This would allow more flexibility, and address concerns that some units would only have a very small outdoor space. Communal spaces could also provide for more space and flexibility for BBQ areas and hangi and umu pits.</p>
Outlook space (per unit) (clause 15 of new schedule 3A)	<p>We recommend that the outlook space be increased so that it is 4 metres by 4 metres for the principal living room window. We also recommend that the 1 metre by 1 metre be applied to all other windows in habitable rooms, not just one window as proposed in the bill.</p> <p>We recommend that the bill clarify that an outlook space can be: above or below another outlook space (in a vertical configuration); and under buildings, such as balconies; and over driveways or footpaths within the site, as long as it is not obstructed by structures such as fences.</p>

Additional density standards

Submitters suggested including a number of additional density standards in the bill. We recognise the need to ensure that the MDRS results in liveable, well-designed homes. To help ensure liveability and improve aesthetics, we recommend including the following additional density standards in the bill.

Proposed additional density standard	Proposed description
Landscaping requirement	<p>We recommend amending the bill so that a minimum 20 percent of a site must be set aside for planting, grass, or tree canopy. Ensuring that green space is provided would also incentivise the maintenance of existing trees on a site.</p> <p>Some of us would prefer a minimum of 35 percent of a site set aside for planting, grass, or tree canopy. Some of us favour no standard, and that the offsetting of felled trees could be done in public spaces.</p>
Glazing requirement	<p>We recommend amending the bill so that a minimum of 20 percent of the front façade of a building is glazed. This could be in the form of windows, doors, or sliders. Glazing would allow for passive surveillance from inside the building, and improve the appearance of the building from the street view. Glazing would also avoid blank street-facing walls, or walls with very few windows.</p>

Qualifying matters

As noted earlier, clause 7, new section 77F would require the MDRS to be incorporated into plans and apply to every relevant residential zone. However, the bill also recognises that not all areas are appropriate for intensification. Clause 7, new section 77G would enable a territorial authority to make the MDRS zoning less permissive if the change was required to accommodate any qualifying matters. Qualifying matters set out in new section 77G include:

- matters of national importance that decision makers are required to recognise and provide for under section 6 of the RMA. This includes matters such as the natural

character of the coastal environment, outstanding natural features and landscapes, historic heritage, and significant risks from natural hazards.⁹

- matters required in order to give effect to a national policy statement (other than the NPS-UD)
- matters required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure
- open space provided for public use, but only in relation to land that is open space
- 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
- matters necessary to implement, or to ensure consistency with, iwi participation legislation
- the requirement in the NPS-UD to provide sufficient business land suitable for low density uses to meet expected demand:
- any other matter that makes higher density as provided for by the MDRS inappropriate in an area, but only the additional requirements set out in new section 77I are satisfied.

As noted above, the qualifying matters set out in new section 77G include a matter of national importance and a matter required to ensure that nationally significant infrastructure operates safely or efficiently, and avoid reverse sensitivity concerns. This could include ensuring residential housing is safely set back from high voltage transmission lines, and other infrastructure such as airport noise areas, in order to avoid reverse sensitivity concerns. There is also scope for councils to identify other qualifying matters.

We recommend amending section 77G to clarify that territorial authorities could use qualifying matters to modify the application of the MDRS and policy 3 of the NPS-UD in residential and non-residential zones.

Additional qualifying matters

We recommend adding Te Ture Whaimana o Te Awa o Waikato (Vision and Strategy for the Waikato River), and other treaty settlement legislation that provides for iwi participation, if necessary in order to give effect to it, as a qualifying matter for the MDRS and NPS-UD intensification policies.

Proposed new section 77G(b) provides that a matter required to give effect to a national policy statement is one example of a qualifying matter. We recommend amending that section to include the New Zealand Coastal Policy Statement as a qualifying matter. We

⁹ The matters of national importance under section 6 of the RMA include: (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development; (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development; (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna; (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers; (e) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga; (f) the protection of historic heritage from inappropriate subdivision, use, and development; (g) the protection of protected customary rights; (h) the management of significant risks from natural hazards.

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note that departmental officials are determining whether other legislation and additional national direction needs to be referred to.

To ensure that the qualifying matters framework functions as intended, we suggest several amendments to section 77H. Our proposed amendments would clarify councils' decision-making discretion. They would also ensure that:

- qualifying matters could be used to modify the relevant building height or density requirements under policy 3(c) and (d) of the NPS-UD
- the language aligns with that used in other parts of the bill
- requirements in relation to the evaluation report were consistent with the purpose of section 32 of the RMA.

Evidence required to justify qualifying matters

The information requirements for qualifying matters are contained in proposed new sections 77H, 77I, 77M, and 77N. New section 77H would require an evaluation report (under section 32 of the RMA) to be produced that details the evidence that supports the restriction of height and densities.

Some submitters queried the proposed information requirements for qualifying matters. They pointed out that a lot of time and resources would have already been invested in evaluation and assessment of information relating to qualifying matters that had already been through a plan-making process. We understand that it is intended that councils and decision-makers should be able to rely on evidence and provisions relating to a qualifying matter (under new section 77G(a) to (g)) if they had already been tested under a plan-making process.

For clarity, we recommend amending the bill to specify that if a qualifying matter had already undergone a public plan-making process, the extent of these matters would not be relitigated but how they relate to the MDRS would need to be addressed. Our proposed amendment would mean that councils would not need to provide significant evidence to justify the inclusion of specified qualifying matters. Instead, councils' assessment would focus primarily on how to accommodate the existing qualifying matter through appropriate heights and densities.

The qualifying matters provisions in the bill give councils flexibility to manage development in areas where a qualifying matter is present. For example, there would be different ways to manage hazards depending on the nature of the hazard. Where a significant hazard exists, such as an identified flood flow path, a council could identify that area as being inappropriate for any further development. Where a lesser hazard exists such as a ponding area, a council could use the qualifying matters to still allow some additional intensification if appropriate but with additional requirements such as higher floor heights. The extent of the area to which a qualifying matter applied could be carried over into the IPI.

The nature of the provisions within the qualifying matter area would be considered through the ISPP process. The operative district plan rules would remain in place until the ISPP process was completed and the new IPI rules became operative.

Other matters that make higher density inappropriate

Proposed new section 77I specifies further requirements about the application of section 77G(h) for “other matters”. That section relates to any other matter that makes higher density as provided for by the MDRS inappropriate in an area. We recommend amending section 77I to make it clear that qualifying matters could be used to modify the relevant building height or density requirements under policy 3(c) and (d) of the NPS-UD.

We note that the bill would not alter existing historic heritage protections. Historic heritage is a matter of national importance under section 6 of the RMA, and so would be considered a qualifying matter under new sections 77G(a) and 77L(a). Where it can be justified, there is also scope in the bill for retention of special character that does not meet the definition of historical heritage as an “other matter”.

We note that councils can exempt areas where there are likely impacts of climate change.

Some submitters outlined their concerns about how intensification would affect the operation of nationally significant infrastructure. An example is concerns about additional noise limits being imposed. We note that the safe or efficient operation of nationally significant infrastructure is a qualifying matter that would enable councils to modify the MDRS or intensification policies.

Some submitters suggested that infrastructure pressures should be added as a specific qualifying matter. There is a risk that such a qualifying matter would place a long-term restriction on development in certain areas, rather than focussing on the provision of infrastructure. We discuss other ways of addressing infrastructure issues later in our report.

Immediate legal effect

Clause 9 would amend the RMA so that a rule incorporating the MDRS in relevant residential zones would have immediate legal effect on notification of the intensification planning instrument (IPI). This excludes when the IPI proposes a more permissive rule (for example, to implement the NPS-UD), is a qualifying matter, or relates to a new residential zone.

Qualifying matters established after IPI notification

Submitters pointed out the possibility that a development could begin after an IPI has legal effect but before submissions and hearings are concluded. It could then be determined that a development was in a qualifying area, so it would not meet the requirement of being a permitted activity.

We acknowledge that there is a low risk that a qualifying matter could be missed during the pre-notification stage, and later identified during the ISPP. The risk will be mitigated through pre-notification consultation and through councils taking a precautionary approach when identifying possible qualifying matters. We note that if a building is completed post-notification, but later found to be in a qualifying area, it would be considered to have existing use rights.

Clarifying which provisions will have immediate legal effect upon IPI notification

We note submitters' comments that the bill as drafted is unclear about which provisions would have immediate legal effect upon notification of an IPI. We recommend amendments to the bill to clarify that immediate legal effect would apply only to:

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

Ability to require tier 2 councils to implement the ISPP, and an option for other councils to request it

Clause 8, new section 80, would empower the Governor-General to make Order in Council regulations (OIC) requiring a tier 2 council to use the ISPP to incorporate the MDRS and relevant NPS-UD intensification policies. The Minister for the Environment would need to recommend the regulations. They would first need to consult the Minister of Housing and be satisfied that the relevant tier 2 district was experiencing an acute housing need.

We believe that the Minister for the Environment should also have to consult the Minister for Māori Crown Relations: Te Arawhiti before making the recommendation. We recommend amending section 80E(4) to this effect.

We do not believe it is necessary to require all tier 2 councils to apply the MDRS, but the Minister should be able to direct them to do so, through this OIC process, as required by an acute housing need. This is because the reasons for housing need vary in each area and other responses could be more appropriate.

For tier 3 councils, the approach is different. We consider that any tier 3 territorial authority should be able to make a request of the Minister for the Environment for approval to adopt the MDRS and give effect to Policy 5 of the NPS-UD through the ISPP. We recommend amending section 80E accordingly.

Proposed new section 80E(5)(a) would require the Minister for the Environment to consider the median multiple in the district when determining whether a district is experiencing an acute housing need.¹⁰ This would be calculated according to publicly available data. We recommend deleting the reference to "calculated according to publicly available data" in this section. This is because the most recent data needs to be used for the median multiple to be useful. However, publicly available data about median household incomes at the territorial authority level is not published regularly and could be several years out of date.

We note a technical drafting error in new section 80E(2) relating to tier 2 councils. The drafting would require a tier 2 council that is included via OIC after 21 March 2022 to incorporate the MDRS through the ISPP, but does not enable the council to also give effect to Policy 5 of the NPS-UD or amend its financial contributions policies. This would result in such a tier 2 council needing to carry out multiple plan changes. We recommend broadening the scope of these plan changes to ensure that tier 2 councils are able to prepare an IPI

¹⁰ The median multiple is the median house price divided by the median gross annual household income.

which is comprehensive and includes the broader IPU scope that applies to tier 1 councils and tier 2 councils included before 21 March 2022.

Enabling schools to benefit from the medium density residential standards

Submitters pointed out that the bill would only apply to residential zones and residential units. They consider that this would result in community facilities and services experiencing increased demand due to intensification, but being unable to easily respond to the demand.

We note that many of the Minister of Education's designations for schools include controls relating to urban form, such as height and setbacks. We do not think these controls would be appropriate when the controls for the surrounding residential zone enable further intensification. We believe schools should have the opportunity to keep pace with increased student numbers resulting from intensification by being able to use their sites innovatively.

Proposed new section 77J relates to the effect of incorporating the MDRS into a district plan on new applications for resource consents. We recommend amending the heading of the section to also include "and on some existing designations".

We also recommend an amendment to new section 77J that would enable schools that need more classrooms to add additional storeys rather than removing more of their green spaces. Our proposed amendment would relate to a designation for a school's land that was in, or adjoined, a relevant residential zone. Works undertaken under that designation could rely on the zone provisions of the relevant residential zone if they were more permissive than the controls included in the designation.

We note the importance of enabling non-residential activities (mixed uses) in residential zones. We were advised that the NPS-UD provides sufficient provision for this, such as objective 1 regarding well-functioning urban environments and policy 1(c) regarding accessibility.

Examples of urban non-residential zones

We note that urban non-residential zones include: any industrial zone, commercial zone, large format retail zone, mixed use zone, special purpose zone, city centre zone, metropolitan centre zone, town centre zone, local centre zone, and neighbourhood centre zone.

Transitional provisions

Schedule 3 would insert new Part 4, clause 31, into Schedule 12 of the RMA. This would be a transitional provision dealing with the status of partly completed district plan proposals and private plan changes. Under clause 31, any proposed district plan or change to a private plan that had not had a hearing completed by 20 February 2022 would need to be withdrawn. We understand that this provision is to ensure that the MDRS would be applied consistently across tier 1 councils.

A number of submitters expressed concern that the transitional provision would not align with the broader intent of the bill, which is to enable supply. They consider that the capacity

for housing development would be reduced if proposed district plans or plan changes were withdrawn.

We agree that the transitional provision could affect housing supply in the short term. We consider that proposed district plans and plan changes that are well progressed should be able to proceed. We therefore recommend removing the requirement for them to be withdrawn.

We recommend amending the transitional provision to enable the following:

- For the proposed district plans that have already been notified, councils could use a variation process to incorporate the MDRS and the NPS-UD intensification requirements.
- Plan changes, including private plan changes, that have been notified at the time of enactment could proceed. In a case where a decision on the plan change had not been notified at the time of enactment, a variation to the plan change could then be notified alongside the relevant council's IPI to ensure that the plan change incorporates the MDRS and the NPS-UD.
- After enactment, new requests for private plan changes to rezone land could be accepted by a council where the IPI could incorporate the MDRS and the NPS-UD.

For private plan changes that have been lodged with the council, but not notified, at the time of the bill's enactment, the plan change must be amended to include MDRS. Once the MDRS has been included, the plan change could be notified as a private plan change or be adopted by the council and put through the ISPP within the IPI. The bill would enable the MDRS within the plan change area but does not require the application to the typology of houses proposed. It is the intent of the majority of this committee that private plan changes in progress are, at the least, not significantly delayed, and at best could be accelerated by this bill. The bill represents a maximum permitted intensification per site without a need for a resource consent, rather than minimum. Some plan change applicants may see the bill as an opportunity to increase the number of dwellings within their proposal.

Several submitters with master plan developments under way noted the risk of delays associated with developers having to resize and scale up their planned infrastructure capacity to meet the requirements of the underlying MDRS zoning. The majority of us consider this can be worked through expeditiously through the ISPP.

Some of us believe that new private plan changes should be able to take advantage of the new ISPP process, regardless of a council's adoption of the private plan change.

Financial contributions

We note that the RMA authorises financial contributions and that they provide funding to address the adverse effects of a development on the environment. We were advised that the use and application of financial contributions has been ambiguous, despite case law confirming that financial contributions can be charged for permitted activities. The bill would make it clear that a territorial authority may include provisions in its district plan to charge financial contributions for any class of activity, excluding a prohibited activity.

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Clause 7, new section 77P, would enable a territorial authority to include or amend provisions for financial contributions, or amend existing financial contributions provisions, in its plan using an IPI. We understand that this is intended to support territorial authorities with the cost of development infrastructure that could be required to incorporate the MDRS.

Proposed new section 77P provides that any changes to financial contributions policies that are proposed and going through the ISPP would have immediate legal effect when the relevant IPI was notified in August 2022. We consider that it would be more appropriate for the financial contributions provisions to be subject to consultation through the ISPP before they have legal effect. We recommend amending the bill accordingly.

We note that development contributions as provided for under the Local Government Act 2002 continue to apply, and can be updated by councils as required to help fund infrastructure. We note that the existing legislation does not permit charging development contributions and financial contributions for the same matter (referred to by some as "double dipping"). This bill would not change the regime for development contributions, but would enable councils to adopt financial contributions. Some of us continue to have concerns about councils' ability to adequately fund infrastructure through development and financial contributions.

Our consideration of related matters

Several matters were raised during submissions that we wish to note.

Infrastructure

We heard a wide range of comments about infrastructure matters. Submitters expressed varying levels of concern about the capacity of existing infrastructure to cope with growth, and the ability for additional infrastructure to be added at the same pace as the housing intensification envisaged by the bill. We acknowledge the significant responsibility placed on local government to implement the bill. We have suggested some amendments that will assist councils in amending their district-wide provisions in plans (including about infrastructure) through the ISPP. The bill would also allow local authorities to recalibrate how they use funding tools such as financial contributions. The bill may mean that local authorities will update their development contributions policies under the Local Government Act 2002. We have noted that there are alternative options outside of the bill to assist with the funding and financing of infrastructure. The MDRS will shift patterns of development and the number of dwellings, which is different from the increased demand on infrastructure arising from overall population growth. The majority of us consider that the overall impacts on infrastructure will be manageable in the short term.

Issues raised by Māori

We have proposed amendments to the bill to help address the issues raised by Māori and others in their submissions. We proposed strengthening the requirement for independent hearing panels to have tikanga expertise. We suggested clarifying the provisions to facilitate papakāinga housing. We also proposed amending the bill to ensure that the Minister for Māori Crown Relations: Te Arawhiti is consulted, in addition to the Minister of Housing, when certain decisions are being made by the Minister for the Environment. We note that further

work will be carried out to ensure the bill reflects the intention to uphold Te Ture Whaimana o Te Awa o Waikato and other Treaty settlement legislation.

Building design and effects of development on people and the environment

New Zealand is facing both a housing crisis and a climate crisis. Low emissions and resource-efficient building design should be encouraged through further work by the Government. The Environment Committee is currently conducting a separate briefing on reducing construction and demolition waste from going to landfill. We will continue our work in this area, and would encourage the building and construction sector to separate their waste materials on construction sites, and be more proactive in diverting waste from landfill and toward beneficial recovery and reuse.

Disabled people face additional challenges finding housing due to the poor accessibility of buildings. We expect that the review of the building standards in the Building Act will help address this significant issue facing the community. We also note the benefits of universal design principles.

We acknowledge the importance of people having access to nature and green space, and the benefits to human health and wellbeing, and the importance of urban trees. We hope that our suggestion of a new density standard for landscaping will help retain some existing trees, and also help address concerns about the amenity of the new housing. We expect councils to consider the adequacy of open space provision when drafting their IPI.

The bill does not affect the requirement for developments to have building consents under the Building Act. We note that work to review the building code is under way by the Government. There is a climate change aspect to this review.

We are mindful that covenants on urban land under the Property Law Act could hinder intensification by placing restrictions on future land use. We understand the Government intends to undertake further work on this to establish whether law change or other intervention is required.

4 Differing views

ACT New Zealand view

Despite the rushed process, with only three weeks allowed from the committee calling for submissions to the closure of hearing them, we received a number of high quality submissions from people with deep knowledge of the industry. Many of these were damning of the bill, and the process around it. It is very regrettable that the committee has not had sufficient time to consider this feedback and will not be issuing a proper report on the bill and the public's view on it.

The committee should take the feedback it received and the circumstances into account. It should ask for additional time. Failing that, it should report back to the House that the bill should not proceed. Because the Labour and National members have not supported that course of action, ACT's views are recorded in this differing view.

ACT agrees that there is a major problem with housing affordability, and that it is a supply-side problem requiring a supply-side solution. ACT members have taken this position for over a decade.

Housing supply is New Zealand's single largest long-term problem. It deserves a serious response, one that analyses the problem, weighs the costs and benefits of different options, and chooses the best one.

However this bill has not done that. It will not deliver more affordable homes in a shorter time frame than the current RMA processes allow. The reasons are:

- The initial secrecy which preceded the introduction of the bill, and the lack of consultation with developers, councils, and professionals means that the many flaws with the bill identified during the shortened submission period cannot be resolved within the time available.
- It fails to enable more land to be serviced by infrastructure and fails to address long-term infrastructure financing and funding problems that are the real constraint on housing supply, according to multiple submitters. In other words, the bill solves the wrong problem.
- It creates a new and complex planning and consenting regime for the new Medium Density Residential Standard (MDRS) which will run parallel to the existing RMA processes for all other necessary land development matters such as earthworks, traffic impacts, and so on, and this will increase, not decrease, the resources, time, and cost required to consent developments.
- A new fast-track planning regime under the bill is only available to councils, not the private developers who deliver most of the homes; they will be stuck with the existing RMA processes which can take years to progress plan changes.
- The bill will actually *cancel* many planned homes because Schedule 3 nullifies high quality master planned developments which will be required to adopt the MDRS for lower-density areas of their developments. Years of work and millions of dollars in land development design will have been wasted, and the homes due to be delivered by these schemes will be delayed by years. We heard at committee that there may be as many

as 15,000 homes in Auckland and Waikato, and almost 10,000 in Canterbury, affected in this way.

- Implementation issues which result from rushed and poorly thought out legislation will further delay consenting and building new homes.

Infrastructure

ACT believes that the proposed reform has missed the opportunity to address long-term issues with infrastructure funding and financing. That, and the time required to obtain consents, connect to existing (and build new) infrastructure, delays projects and adds excessive cost to new homes.

Submitters, including developers and councils, told the committee that the main barrier to getting more homes built was the availability of local wastewater and stormwater infrastructure, and the time and cost to connect to networks. This means zoning more land for theoretical development will not have a real effect on the number of homes supplied in New Zealand.

One submitter pointed out that a long-planned council project to separate 100-year-old combined wastewater and stormwater networks in central Auckland was ten years behind schedule, and that no further development could take place in that area until the project is completed, although it was zoned for much more intensive apartments and terraced housing under the current Auckland Unitary Plan.

Developers stated that obtaining a decision from a council on new connections to the wastewater and stormwater network can take 12 to 18 months, even though developers carry out their own modelling to show whether the impact of their scheme can be absorbed by the network or whether upgrades are required.

Developers told the committee that they are often then compelled to pay millions of dollars to upgrade local infrastructure networks in order to get approval to build in existing urban areas. Those costs flow directly on to the price of a new home in that development. However, other developments which follow can then connect to the upgraded network without having to contribute any more than the standard development contribution fee for each new connection.

This creates perverse incentives for some developers to wait until upgrades are completed by others before proceeding with housing development in existing urban areas, and unfairly loads infrastructure costs onto some new home buyers.

The status quo approach is completely inappropriate to incentivise the provision of infrastructure in a way that fairly allocates the costs of existing and new services over a reasonable time frame. We conclude it would be better to solve these practical problems so that existing zoning can be used, than to radically rezone most of residential New Zealand.

ACT supports the building of new homes, and we understand that homes come with infrastructure costs that need to be met. That is why we proposed a policy to ensure that local councils receive a payment equivalent to 50 percent of the GST for every new dwelling constructed in its territory.

RESOURCE MANAGEMENT (ENABLING HOUSING SUPPLY AND OTHER MATTERS) AMENDMENT BILL

The policy provides both an incentive for councils to enable building, and a means of covering some of the costs that fall on them as a result. It transforms development from being a source of cost to a source of revenue.

- Immediately repurpose the Housing Accelerator Fund to share 50 per cent of the GST collected on new building and construction with the councils, to be used to cashflow the upgrade of infrastructure capacity in a more fair and equitable manner.
- Begin planning for establishing the fund as an enduring system for GST sharing across all councils.

ACT believes the Government should tap into private sector investment to help fund new projects faster and at less cost to New Zealanders. By using public-private partnerships, the Government can limit the cost and risk taken on by taxpayers and councils.

- Immediately fast track and seek proposals under the Infrastructure Funding and Financing Act.
- Immediately begin work to seek out and secure private capital for new infrastructure projects (ACT has supported combining Crown Infrastructure Partners and the Infrastructure Commission with this mandate, but we are open to discussion on the method of delivery).

ACT has asked that the committee write to the Business Committee requesting that the bill be made an omnibus bill so that these initiatives can be included. We regret that Labour and National did not support even this procedural motion.

Medium Density Residential Standards

Submitters including Auckland Council, developers, and urban designers gave evidence that the MDRS was not necessary, and would not add any more homes than what is already allowed under the existing fully tested and litigated Auckland Unitary Plan zones such as the Mixed Housing Suburban (MHS) zone.

ACT believes that the Government should abandon the MDRS and use the existing Auckland MHS Zone to achieve intensification in residential areas not already zoned for higher density.

ACT proposes that, instead of imposing an entirely new zone, the legislation should simply require that zones with lower intensity than those that currently exist are upzoned to the MHS zone and, in cities where such a zone does not exist, use the MHS zone. The exemption from resource consents could remain, simply using the Auckland MHS rules, and removing the restriction on further quality standards in building consents.

Planning and consenting delays

One developer estimated their annual overheads at around \$1 million per project, which means any delay beyond the maximum 20 day requirement to process consents under the RMA adds greatly to the cost of new homes. They claimed to regularly experience delays of one to two years, and in extreme cases have spent seven years obtaining planning permission through hearings and appeals.

RESOURCE MANAGEMENT (ENABLING HOUSING SUPPLY AND OTHER MATTERS) AMENDMENT BILL

The bill establishes a fast-track planning process for councils to establish the MDRS zoning and set up streamlined consenting processes under that plan change.

ACT believes that any fast-track planning and consenting process that is made available to councils and Government departments such as Kāinga Ora should be available to private developers as well.

Master planned developments

The committee was advised that the bill will actually reduce the supply of new homes in the immediate term. Many master-planned developments with the potential to deliver tens of thousands of homes in the next three to four years are likely to be effectively sterilised by the bill.

That is because the bill requires master planned developments to up-zone single house zones to the MDRS zone, which allows for three homes at three storeys.

Developers raised the risk that the MDRS zone is totally incompatible with the size, scale, and location of their developments, which already provide a high average density through apartment and terraced zones.

Infrastructure in master-planned developments such as Stonefields in Auckland is designed to handle exactly the number and configuration of homes inside the development, to minimise the risk of sewer overflows and stormwater contamination and effects on local ecosystems.

Developers contend they will be forced to abandon many years of work costing millions of dollars on land development engineering, specialist ecology and environmental reports for the current plans and designs.

They are rightly concerned that if their plans are forced to include the MDRS zone, that years and millions of dollars will have been wasted designing a development that will not be allowed to proceed under the current plan and consenting approach.

ACT supports an exemption from the requirement to incorporate the MDRS for master planned developments which are well progressed although not yet notified, in recognition that tens of thousands of homes due to be delivered in the next two to three years will be at risk if these developments do not proceed as currently planned and designed.

Summary

We agree with commentators who have called the bill "KiwiBuild 2". It is a high profile housing policy that is supposed to be a breakthrough but instead solves the wrong problem. Just as KiwiBuild focused on buildings when the real shortage is of sections, this bill focuses on zoning when the real issues are elsewhere in the housing supply chain.

ACT considers that the RT SOP, when made publicly available, should be referred back to select committee for further public submissions and consideration by the committee.

Green Party of Aotearoa New Zealand view

Truncated process

Reducing the select committee process on the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill from the usual six months to six weeks has created significant challenges for public scrutiny, participation, and review by the select committee. It is less likely to result in good law as there has not been time for all the committee's proposed amendments to be drafted and fully considered. The shortened time frame has created particular challenges, as the bill was not informed by earlier public consultation, so the select committee was the first opportunity for public input and refinement of the overall policy direction and how it is implemented.

The Green Party acknowledges the huge effort by councils, iwi and hapū, community organisations, the urban design community, developers, and others to prepare and present submissions within the constrained timetable. There was significant expertise in the public submissions and hearing presentations and this led to some changes. Further changes are needed.

Bill's intent

The Green Party strongly supports intensification of housing development and urban renewal to help tackle our housing crisis, avoid urban sprawl, protect productive land for food growing, reduce transport emissions, and protect our climate. The question is not whether to intensify; it is how.

The bill seeks to improve housing choice and affordability by enabling infill development of three storeys and three dwellings on urban residential lots as a permitted activity with no need for a resource consent. The Green Party agrees with an overall approach of more planning certainty to encourage intensification of housing in existing urban areas. However, applying the MDRS as a "one size fits all" approach to virtually all residential zones¹¹ across Auckland, Tauranga, Hamilton, Wellington, and Christchurch is a missed opportunity to do density well.

It is a missed opportunity to create more liveable and resilient cities and neighbourhoods and the "well-functioning urban environments" that enable people and communities to provide for their wellbeing which the National Policy Statement on Urban Development (NPS-UD) requires. The Medium Density Residential Standards (MDRS) and the bill's approach do not take account of how to cohesively transition streets, blocks, and neighbourhoods from predominantly single storey dwellings to higher-density typologies. A more robust policy process could have facilitated the same level of planning certainty for new development, without these potential pitfalls.

The bill incentivises infill development of single suburban sections and relatively small lots. Submitters noted this risks increased fragmentation of lots through cross lease and unit title arrangements, making land more difficult to redevelop in future if single owners prevent others from redeveloping their land. By permitting one type of intensification through the

¹¹ Except "large lot" and "settlement" zones as defined in the National Planning Standards.

MDRS, the bill has no incentives for alternatives. There is no incentive (such as additional development rights, or greater height limits on larger sites) to encourage developers to aggregate lots and develop whole blocks in a co-ordinated way that enables well designed perimeter block apartments and units. These can enable retention of green space and existing urban trees by reducing the fragmentation of rear yards.

Partnership with local government missing

In a housing crisis, the Green Party recognises that we need urgent action to boost housing supply and sustainable intensification of urban areas through national direction. However, the Green Party is disappointed that the Government did not consult local government and interested stakeholders to develop the bill and its density standards and avoid implementation issues. A partnership between central and local government which respects the role of local elected councils, their essential role in place-making, and their knowledge and representation of local communities would better implement principles of subsidiarity and appropriate decision making. It would also help ensure urban intensification is well integrated with existing and planned infrastructure capacity, from public and active transport routes, to wastewater and stormwater and community services, because liveable neighbourhoods require more than just new houses.

We recognise that some councils have faced challenges in providing for housing intensification in central areas through the existing planning and consenting processes due to a range of factors. While councils such as Auckland, Hamilton, Tauranga, and Christchurch have been making considerable progress in implementing the NPS-UD already, this bill can provide councils with a broader mandate to accelerate this work.¹²

When it comes to implementing this direction in the specific local context of each area, the Green Party seeks changes to give councils more ability to focus infill development around existing commercial centres and transport routes, and where wastewater, stormwater, and other infrastructure and community facilities are adequate, or capacity upgrades are planned.

Even with the changes suggested by select committee, the work and evidence required of councils to apply the "qualifying matters" in new section 77G to change how the MDRS apply in residential zones risks being burdensome. Under new section 77H councils need to provide significant evidence that a qualifying matter exists to limit development "to the extent necessary to accommodate the qualifying matter". The high evidential burden and the cumbersome process creates more planning work and could limit the use of qualifying matters. It also risks limited action to restrict residential development in areas affected by rising sea levels, flooding, or other natural hazards or where it would degrade outstanding natural features with cultural heritage values such as Auckland's volcanic maunga.

Intensification Streamlined Planning Process

The bill increases ministerial power by providing for the Minister to be the overall decision maker on plan provisions in the ISPP, if councils decide not to accept the recommendations

¹² The Auckland Unitary Plan (AUP) for example already enables 900,000 new dwellings, and the number of new building consents granted annually has more than doubled.

of the Independent Hearing Panel on the intensification planning instrument. The Green Party would prefer a similar model to that used for the Auckland Unitary Plan to enable access to the Environment Court appeals process where panel recommendations are not agreed to by a council.

Papakāinga housing

Papakāinga housing can be provided for through an intensification planning instrument but is not permitted as of right on Māori land owned under the Te Ture Whenua Māori Act or Māori-owned general land in the same way that infill development of three storey units are. Further changes are needed here. This is an example of a change that the select committee could have recommended, were more time available to consider the bill and to consult with iwi and hapū.

Plan changes

The select committee's recommended changes to the transitional provisions would allow private plan changes to proceed. While the MDRS would apply as an underlying zoning to allow future infill development, there is no requirement for developers to modify plan change applications on city fringes to achieve intensification and avoid urban sprawl. In plan changes which upzone rural land to residential, the bill should be promoting an increase in medium density homes and enabling associated community and commercial services. Upzoning also needs to be done in a manner that protects highly productive land and provides access to public and active modes of transport.

Selwyn/Waikirikiriri is one of Aotearoa New Zealand's fastest growing districts. There are 18 plan change requests lodged with council to provide 12,000 houses. If the bill included a new density standard of an average of 40 to 50 dwellings per hectare across the plan change site, excluding reserves, waterways, and non-housing areas, for example, it would provide more affordable housing and more choice for home buyers. Such a standard would help avoid more sprawling, car-dependent suburbs with only single-storey houses on small lots which have characterised new residential subdivisions around Christchurch, Rolleston, Prebbleton, and Lincoln.

Because the bill does not amend the Property Law Act, developers can continue to use covenants in new subdivision developments to protect single storey housing development and frustrate future intensification.

Density standards (formerly building standards)

As Auckland Council and many submitters noted, the proposed building standards risk producing poor outcomes for individual sites, homes, neighbours, and neighbourhoods.

The select committee has recommended improving the building standards, renamed as density standards, by increasing outdoor space to 20 square metres per unit, increasing outlook, requiring 20 percent of a building's street frontage to be windows, and requiring 20 percent of the site to be landscaped. The standards are still less comprehensive and more permissive, including in relation to height-to-boundary and recession planes, than standards for medium density dwellings in the Auckland Unitary Plan's mixed housing urban zone and similar zones in other plans.

RESOURCE MANAGEMENT (ENABLING HOUSING SUPPLY AND OTHER MATTERS) AMENDMENT BILL

The bill allows councils to have fewer or more permissive bulk and location and other density standards; but not stronger ones to provide for less bulky buildings, more natural light to reduce energy costs and avoid dampness, more green space, and better connections between dwellings and the street. More flexibility is needed here to ensure better quality, low energy-intensive, climate friendly homes.

There are no standards that encourage urban water conservation on site or accessibility standards such as Lifemark that promote or require universal design so new dwellings are accessible by seniors and disabled people. In 2014 the Committee on the Rights of Persons with Disabilities recommended that consideration be given to ensuring that new future private houses are made fully accessible. It is disappointing this recommendation is not being implemented through a new standard to future-proof the new builds the bill enables.

Including detailed density standards in primary legislation is equivalent to including the building code in the Building Act. The Green Party believes it would be preferable to notify new Schedule 3A as regulations under the RMA, as part of the National Planning Standards or as national environmental standards. This would allow the building standards to be more easily updated, improved, or amended than primary legislation can be. The very short parliamentary time frame for the bill risks implementation issues, including with the standards, because of the limited time to consider and improve the bill.

Urban trees

The bill allows intensification as of right with no protection for existing trees. This is despite mature trees being felled at pace for infill development in Auckland and Christchurch. Urban trees reduce the urban heat island effect, reduce the pressure on stormwater systems, improve air quality, provide habitat for wildlife, and make our cities more pleasant places to live. If we can change the law urgently to promote housing development, we should be able to do the same for nature. The Green Party wants to see the 20 percent landscaped area standard increased to encourage the retention of existing trees, and controls on felling of existing trees higher than 6 metres.

Appendix

Committee procedure

The Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill was referred to the committee on 26 October 2021. The closing date for submissions was 16 November 2021. We received and considered 966 submissions from interested groups and individuals. We heard oral evidence from 183 submitters via videoconference.

We received advice on the bill from the Ministry for the Environment and the Ministry of Housing and Urban Development. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office advised us on legal drafting matters.

Committee members

Hon Eugenie Sage (Chairperson)
 Rachel Brooking
 Tāmāti Coffey
 Simon Court
 Anahila Kanongata'a-Suisuiki
 Hon Scott Simpson
 Tangi Utikere
 Angie Warren-Clark
 Nicola Willis

Advice and evidence received

The documents that we received as advice and evidence are available on the Parliament website, www.parliament.nz.

Resolution to Exclude the Public

Section 48, Local Government Official Information and Meetings Act 1987

The following motion is submitted for consideration:

That the public be excluded from the following parts of the proceedings of this meeting, namely consideration of the public excluded agenda.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution follows.

General subject of each matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
C1. Confirmation of the District Plan Public Excluded Minutes of 4 November 2021) Good reason to withhold) information exists under) Section 7 Local Government) Official Information and) Meetings Act 1987)	Section 48(1)(a)
C2. Update on the District Plan Change Programme)	

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

Item C1.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C2.	to maintain the effective conduct of public affairs through protecting persons from improper pressure or harassment to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (f) (ii) Section 7 (2) (j)