

Is the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill a sign of things to come?

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The Government, with bipartisan support from the National Party, has introduced a bill to rapidly accelerate the supply of housing in areas of high demand. It will enable greater levels of permitted residential intensification within low and medium density residential zones in New Zealand's largest centres.

The Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill (the Bill) proposes to amend the Resource Management Act 1991 to achieve these outcomes. The proposed amendments will work with the National Policy Statement on Urban Development 2020 (NPS-UD) to further increase housing supply in New Zealand's five largest urban areas (Tier 1) - Auckland, Hamilton, Tauranga, Wellington and Christchurch - and some Tier 2 urban environments, where required.

What does the Bill propose?

While the NPS-UD sets a powerful policy direction for improving housing supply in New Zealand's urban areas, it would take until at least August 2024 under the current framework to unlock additional housing development capacity. Given the significance of the housing crisis across New Zealand, the Bill has been earmarked to help expedite the implementation of the NPS-UD.

To assist, the following key changes are proposed:

- **The introduction of Medium Density Residential Standards (MDRS) via a new streamlined planning process.** The MDRS will enable three dwellings of up to three storeys on each residential site as of right, removing the need for resource consent. Proposals for more than three dwellings or that do not comply with the specified building standards will be a restricted discretionary activity. Building consent for all proposed developments will still be required. Generally, the MDRS are intended to have legal effect from the time councils notify their plan changes once introduced via the streamlined process. This is intended to accelerate the intensification goals of the NPS-UD. The implementation of the MDRS will be mandatory for every Tier 1 territorial authority and will apply to most residential areas unless any qualifying matters apply such as heritage or special character features. As for Tier 2 territorial authorities, they could be required to use the streamlined process to adopt the MDRS by Order in Council for areas where the Minister determines there are acute housing needs.
- **A new Intensification Planning Instrument (IPI).** The Bill proposes a new planning instrument to be specifically used to enable plan changes/variations to incorporate the MDRS, give effect to relevant NPS-UD policies (Tier 1: Policy 3 and 4; Tier 2: Policy 5) and include or amend provisions for financial contributions. The Bill requires all Tier 1 territorial authorities and Tier 2 territorial authorities required by Order in Council to notify one IPI only on or before 20 August 2022.
- **A new Intensification Streamlined Planning Process (ISPP).** The proposed ISPP provides a new efficient and cost-effective planning process for the implementation of the IPI. Councils will be required to establish an independent hearing panel to conduct a hearing of the submissions on the IPI and make recommendations following the hearing. The Minister for the Environment will have additional decision-making powers if councils do not accept all recommendations. While the process will allow opportunities for Maori/iwi and public participation, there will be no appeal rights. However, the ability to seek a judicial review has been preserved.
- **Clarify intensification requirement in the NPS-UD.** The Bill proposes to amend Policy 3(d) in the NPS-UD to allow Tier 1 councils to enable building heights and density of urban form commensurate with the level of commercial activities and community services within and adjacent to neighbourhood centre zones, local centre zones and town centre zones (as defined in the National Planning Standards). This shift away from accessibility requirements should enable greater intensification in Tier 1 urban environments.
- **Current proposed plans and private plan changes may need to be withdrawn.** The timing of the Bill will cause some headaches for Tier 1 councils currently working through plan change requirements to implement the NPS-UD and private plan change requests. The Bill sets out specific triggers that will require the withdrawal of existing plan changes that do not align with the Bill or have not had a completed hearing by 20 February 2022. Councils will need to carefully consider current plan changes on the books in light of the Bill.

Next steps

The Bill was introduced to Parliament on 19 October 2021, and we understand it will have its first reading on 26 October 2021. The public submission process will be truncated to a three week period, so getting submissions underway early will be critical. The Bill is expected to be passed before the end of this year.

The Bill could be a sign of things to come in the reform process under the Natural and Built Environments Bill (NBEA). For that reason, this is an important opportunity to contribute to refinement of the Bill rather than waiting for the full text of the NBEA to be released.

We will be keeping an eye on the process and will provide further updates.

Please get in touch with one of our experts if you wish to discuss the Bill further or to discuss what this would mean for your upcoming projects.

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