



# Taituarā

Local Government Professionals Aotearoa

**Submission of Taituarā  
to the  
Ministry for the Environment  
regarding  
*Resource Management (Enabling Housing Supply and Other  
Matters) Amendment Bill***

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## **What is Taituarā?**

Taituarā thanks the Ministry for the Environment (the Ministry) for the opportunity to submit on Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill.

Taituarā (formerly the NZ Society of Local Government Managers) is an incorporated society of approximately 930 members<sup>1</sup> drawn from local government Chief Executives, senior managers, and council staff with significant policy or operational responsibilities. We are an apolitical organisation. Our contribution lies in our wealth of knowledge of the local government sector and of the technical, practical, and managerial implications of legislation.

Our vision is:

*Professional local government management, leading staff and enabling communities to shape their future.*

Our primary role is to help local authorities perform their roles and responsibilities as effectively and efficiently as possible. We have an interest in all aspects of the management of local authorities from the provision of advice to elected members, to the planning and delivery of services.

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<sup>1</sup> As of 30 September 2021

## Summary

Taituarā supports the need to increase housing supply and choice to increase the wellbeing of individuals, whanau and communities. We therefore support the general intent of the Bill.

We appreciate the bi-partisan desire to move at pace to implement the NPS-UD, however we would have preferred to see genuine engagement with local government professionals (particularly those within in Tier One councils) prior to the Bill's introduction to ensure an accelerated programme delivers better housing outcomes within an integrated framework for community wellbeing and environmental improvement.

Our submission supports the streamlined approach to plan making, the inclusion of financial contributions for permitted development, and suggests a more targeted approach is taken to accelerating housing development to reduce current infrastructure capacity and funding challenges and maximise intensification of development in the right place - accessible, connected, well designed and resilient - to improve community wellbeing.

We also request further consideration is given to the standards proposed and the use of the new Intensification Streamlined Planning Process to progress district plan changes. Given the significant time and ratepayers investment in developing plan changes to give effect to the NPS-UD we ask that Plan changes already underway should be provided with a pathway to continue (rather than being withdrawn).

We strongly encourage government officials to work with the Tier One council officials on the next steps for the Bill's development and its implementation to achieve closer alignment of the Bill's outcomes with the recently released Government's Policy Statement on Housing and Urban Development 2021 (GPS-HUD), achieve integrated management of development and infrastructure provision, maximise benefits and avoid unintended consequences. This may take a little more time, but this need not be excessive and will ensure the objectives of the Bill can be achieved.

We are happy to coordinate a working group of Tier One councils to assist MfE officials.

### ***Medium Density Residential Standards (MDRS)***

Local government professionals and elected members in Tier One councils have already carried out significant work to progress the need to increase housing supply

and choice, including the development of a raft of proposed and draft District Plan changes to implement the NPS-UD.

Efforts to date have focussed on integrated planning and intensification in areas with the potential to support more development where there is sufficient infrastructure or planned infrastructure to support well-functioning urban environments and community wellbeing.

The proposed building standards for permitted medium density development represent a significant shift to the built form settings in residential zones.

While the increased potential building envelope should increase housing choice and options for homeowners and builders, we are concerned that changes could result in less supply and variety of housing being realised overall and the undermining of:

- the recent Government Policy Statement on Housing and Urban Development (GPS-HUD), and its vision that 'places should be accessible, connected, well designed and resilient' and
- the existing intensification approach of policies 3 (a) – (d) of the NPS-UD
- iwi settlements such as the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 and Te Ture Whaimana o Te Awa o Waikato/the Vision and Strategy for the Waikato River (Te Ture Whaimana).

We are also concerned that the Regulatory Impact Statement was completed before all Tier One and Two local authorities completed the housing assessment aspect of their new housing and business development capacity assessments and does not consider the significant work that has been done to assess capacity and implement the NPS-UD to date.

We offer the following commentary to ensure any future Act is workable and achieves the outcomes desired.

The blunt application of the MDRS across almost all residential areas is more likely than not to result in ad hoc sporadic residential development away from central areas, towards locations where isolated (potentially cheaper and larger) properties are available for small-scale speculative development.

This is in-part because there is no established 'brown-field' redevelopment business sector in New Zealand. The capability and core-business of most of the land development sector is focussed on greenfield development. 'Brown-field' redevelopment that typically occurs in many overseas cities, is more specialised and requires greater coordination of bulk land purchasing and regulation and is often supported by central or local government redevelopment agencies. In the absence of

appropriate coordination between land purchasing and regulation, the uptake of opportunities for 3 to 6 storey multi-unit infill development is more likely to result in isolated single-site development locations.

Further, in older settlement areas, isolated sites are more likely to have aged or inadequate infrastructure (such as old and/or inappropriately sized water and wastewater reticulation). In addition, settlements which lack effective public transport, or have fewer connections to employment, education, social and community services, or lack of proximity to parks and open space, are probably less likely to experience an uptake of 3-6 storey multi-unit development, undermining the usefulness of enabling such development.

At the other end of the scale, enabling 3-6 storey development in the absence of a supporting infrastructure is likely to dilute the efficiency of sunk investment in infrastructure in places where local communities and councils have already focused their efforts and funding. This could make the attainment of community wellbeing and appropriate environmental management more difficult to achieve, undermining the Government's goal to create well-functioning urban environments as well as other objectives such as a zero-carbon future (with more private transport movements and car dependency in inaccessible places) and improving freshwater outcomes.

There is also the potential for the three-storey development permitted by the MDRS to occur within the areas subject to policy 3 (b) – (d) of the NPS-UD that enable significantly more development (as much as possible / six storey areas) and, at the other end of the scale, for super-sized homes rather than multiple dwellings to be developed on sites.

Taken individually and together, these changes could result in less supply and variety of housing being realised overall, which would be a perverse outcome of the proposed changes.

In addition, there is no ability for councils at subdivision stage to require minimum densities of development, which could undermine the overall intent to achieve density at scale and there does not seem to be any flexibility in the Bill for providing for a range of zones (that would presumably be needed to support residential activities) in greenfield development. The provisions for enabling greenfield development should therefore be amended to more clearly provide for rezoning of land to residential categories to allow for greenfield development.

The Bill also uses inconsistent terminology and creates ambiguity particularly when cross referenced with the preamble's focus on cities. Specifically, we refer to the references to 'Tier 1 territorial authorities', 'relevant territorial authorities', and 'urban environments' to determine where intensification planning instruments and the MDRS will apply. As the MDRS requirements are not limited to Tier One urban environments there is the potential that small towns and settlements could be affected. It is assumed that the intention was to target Tier One urban environments and not these small towns and settlements within Tier One councils.

### **Infrastructure**

The timeframes in the Bill and the uncertainties over where development might occur provide little opportunity for additional infrastructure planning let alone delivery of that infrastructure to enable development. With a lack of infrastructure capacity already acknowledged in the Ministry for the Environment's Regulatory Impact Statement (RIS) as a key contributor to the lack of housing development at scale or pace, we recommend that the Bill enables councils to take a coordinated approach to infrastructure planning and delivery within identified areas, rather than promoting scattered development across cities and districts that will exacerbate existing challenges.

Councils are already phasing investment in infrastructure to address both present challenges and future demand from growth in a way that ensures affordability while also improving the environment and increasing resilience to natural hazards and climate change. Continuing this practice would be efficient and make the best use of resources, including funding.

We are also mindful of the current Infrastructure Acceleration Fund process to increase the numbers of homes that can be built, particularly in locations of high housing demand and with good access to public transport, jobs, education, and amenities and the co-investment required from councils. We wish to maximise the effectiveness of both central and local government's investment.

Targeting development to areas with enabling infrastructure would also manage expectations and private investment, as no one wants significant investment, for example in land acquisition and professionals' fees, where there is no capacity in existing networks and a building consent application must be declined.

Instead of applying the MDRS across almost all residential areas we recommend that the MDRS is targeted in the first instance. For example, applying the MDRS within the

Medium Density Residential Zone (MDRZ) and or within a radius around city and metropolitan centre zones. We also recommend that councils are given the ability to exclude areas that do not have existing or planned infrastructure capacity to support intensive development (in line with the NPS-UD infrastructure-ready provisions). In particular we ask that the Bill excludes unreticulated areas.

A more focused, staged approach to intensification will support thriving and resilient communities which are accessible and connected to employment, education, social and cultural opportunities and achieve the NPS-UD's focus on creating well-functioning urban environments and improved four well-beings as per the Government's Policy Statement on Housing and Urban Development 2021 (GPS-HUD).

### **Design for community, whanau and individual wellbeing**

While we appreciate the desire to limit the minimum standards to be met to accelerate housing development, the urban spaces, infrastructure and buildings created today will, by and large, remain significantly unchanged for the foreseeable future.

We consider that good design elements could be included without reducing the amount of development that could be achieved on a site and would enhance the urban environment and provide better quality of life for occupants and neighbours.

Taituarā requests that

- all the proposed building standards, including the 11m building height limit and 6m+60° recession plane, only apply when three units are developed on a site (to avoid supersized individual dwellings).

We also request that consideration be given to:

- including design standards that ensure houses and streetscapes are well-designed, safe, accessible, resilient and contribute to a well-functioning urban environment. Examples of design guides and standards include the New Zealand Urban Design Protocol, Crime Prevention through Environmental Design principles, accessible and universal design features that provide greater liveability for people living with disabilities and an ageing population, the urban design standards developed by Kāinga Ora and those developed by the Tier 1 councils themselves. Given Kāinga Ora's role in housing and development, their standards could be a minimum.

- increasing the minimum outdoor living space requirements and increased flexibility in applying those outdoor living space provisions.
  - All residential dwellings should have access to outdoor space to promote liveability and wellbeing (not just ground floor units).
  - We ask that the standards also enable the per unit outdoor living space standard to be grouped together into communal space (eg in the form of roof top gardens or communal areas) to produce more usable space, encourage community connection, and reduce cost. The minimum per dwelling could then be reduced.
  
- introducing a minimum net floor area standard to help ensure that residential units create quality living environments and support individual wellbeing.
  
- considering minimum landscaping requirements for residential developments to achieve more attractive streets and neighbourhoods, absorb carbon dioxide emissions and contribute to biodiversity and improved air quality.
  
- standards or guidance that provide opportunities for new buildings that support climate change objectives, including passive energy and opportunities for active solar collection in the future, green buildings, and on-site retention of water and re-use of greywater.
  
- providing a buffer zone around public amenities, open spaces and parks to ensure they continue to function as intended (not overshadowed etc).
  
- setbacks from waterways to increase resilience, facilitate natural functioning of waterways and protect environmental values.
  
- the appropriateness of the proposed standards for all Tier One councils, especially the high and recession planes and their effect on shading, given the very different topographies and latitudes of each of the councils and the significant differences between Auckland and smaller settlements in Tier One councils.

We also request clarification in the Bill that district wide matters (as defined in the planning standards) remain unfettered by the MDRS and that the Bill applies only to buildings and not activities such as earthworks etc.

We also note that the height limits and standards set out in the Bill will facilitate a level of development greater than the public will generally expect because of the increased baseline for development. This will have the effect of an easier consenting process for buildings in excess of the scale set out in the MDRS because the effects assessed at a resource consent will only be the additional effects from going beyond the standard rather than the effects from the entire development. This has not been clearly communicated to the public.

Given the large amount of work that has already occurred within councils, we strongly encourage government officials to work with the Tier One council officials on the next steps for the Bill's development and its implementation to maximise the benefits and avoid unintended consequences.

### **Recommendation: MDRS**

- 1. Retain the exclusion of the large lot residential zone from the application of the MDRS.**
- 2. Clarify the Bill is only mandatory in Tier One urban environments and does not apply to Tier One territorial authorities where they do not have a Tier One urban environment within them**
- 3. Target the application of the MDRS for example within the Medium Density Residential Zone (MDRZ) and or within a radius around city and metropolitan centre zones.**
- 4. Give councils the ability to exclude areas from the MDRS that do not have existing or planned infrastructure capacity to support intensive development to ensure there is integrated planning and specifically exclude unreticulated land.**
- 5. Allow for a precautionary approach in areas where infrastructure constraints and issues are known but there is incomplete information on what additional level of development may be appropriate.**
- 6. Limit all of the proposed building standards, including the 11m building height limit and 6m+60-degree recession plane, to when three units are developed on a site (to avoid oversized individual dwellings).**
- 7. Include elements of the design principles into the permitted activity framework / standards to ensure development contributes to well-functioning urban environment and supports individual and community wellbeing. The urban design standards developed by Kāinga Ora maybe a useful starting point.**
- 8. Note the changes will create a new permitted baseline that will enable even more intensive development.**

9. **Clarify that district wide matters (as defined in the planning standards) remain unfettered by the MDRS.**
10. **Provide a pathway for Plan changes already underway to continue if the MDRS is incorporated (rather than being withdrawn).**
11. **Officials work with Tier One councils on refinements to the Bill to maximise benefits and avoid unintended consequences. We are happy to co-ordinate a working group of Tier One councils to assist.**

### ***ISPP***

Taituarā supports the proposal to expedite the implementation of the intensification policies of the NPS-UD through the new Intensification Streamlined Planning Process (ISPP). Many Tier One councils are well on their way to implementing the NPS-UD and the absence of an appeals process in the ISPP will assist many.

However, the narrow scope of the ISPP, as proposed, has the potential to over-complicate councils' district plan reviews. District Plans work best if they are considered as an integrated package, so the entire plan change and/or District Plan Review, including any urban zoning and district wide provisions.

Therefore, we suggest that the scope of the Intensification Streamlined Planning Process should be broadened to be available to any plan change or full district plan review that addresses the requirements of the NPS-UD.

Clause 80G(a) limits territorial authorities to notifying only one intensification planning instrument (and therefore to use the ISPP only once). It is unclear why the limit should be only one.

Circumstances will change and it would be appropriate to have a streamlined process to enable more intensive development where enabling infrastructure is confirmed (for example along rapid transit routes and stops or where increased capacity in three water networks is being delivered) or when further information, such as flood hazard modelling information, is available at sufficient detail to understand how risks can be addressed. The ability to insert additional building standards to address constraints identified after an intensification plan change should also be simple, cost effective and timely.

We think the ability to use the ISPP process on an ongoing basis is more in line with the intent of the Bill and the Government's desire to realise the implementation of the NPS-UD as soon as possible and recommend that it continue to be available to implement Policy 3 of the NPS-UD as circumstances change.

While supportive of the ISPP, we and our members are concerned about the capacity of independent hearings panel members to resource 18 simultaneously notified planning instruments, the capacity of the Ministry to make directions within a timely manner under clause 80I and to deal with referrals under clause 104.

We ask that consideration is given to allowing for joint ISPP hearing processes. This would allow councils to run their processes together or in parallel and make use of the same hearing panel.

We are acutely aware of the workforce issues that exist within planning profession and between both spheres of the local / central public service. There simply are not enough planning professionals to go around and there is a real risk that resourcing up central government will be to the detriment of councils and vice versa.

It is possible that delays might be overcome by early Ministry involvement in the process, so likely directions are known early.

Instead of Ministerial decisions on recommendations of independent hearings panels (that have not been accepted by councils) it may be more appropriate to include merit hearings in the Environment Court as the specialist tribunal that has been established for, and has expertise in, the issues that are likely to emerge.

### **Recommendations:**

- 12. The scope of the Intensification Streamlined Planning Process should be broadened.**
- 13. Councils should be able to use the Intensification Streamlined Planning Process more than once to adapt to changes, such as decisions on enabling infrastructure or the availability of better information.**
- 14. The Bill should not exacerbate capacity issues within the planning workforce, including hearings panels.**
- 15. Consider allowing for joint ISPP hearing processes**
- 16. Consider the use of merit hearings in the Environment Court (rather than Ministerial decisions) where recommendations of independent hearings panels are not accepted by councils.**

***Other***

Taituarā supports the proposed amendments to Policy 3(d) in the NPS-UD (section 77O and Schedule 2) provided that:

- the term “community services” replaces “community centres” (which would provide consistency with section 77O)
- consideration is given to the exclusion of ‘neighbourhood centres’ (areas used predominantly for small-scale commercial and community activities that service the needs of the immediate residential neighbourhood). They are not generally considered ‘accessible places’ with links to a range of employment, commercial and social activities.

There appears to be an inconsistency between the Bill and the current requirements of the National Planning Framework. S77F states that the medium density residential standards (MDRS) must be incorporated inside relevant residential zones. S77G then provides the circumstances (‘qualifying matters’) where the MDRS can be more restrictive, and these matters are also to be placed in the relevant residential chapter. This is inconsistent with typical layout of District Plans and contrary to the layout established in the national planning standards.

Taituarā supports the provisions in the Bill to enable Financial Contributions to be required from permitted developments and not just those that require resource consent. We also support enabling district plan financial contributions provisions to be amended using the ISPP. The Bill should allow councils to collect Financial Contributions from the date when development is enabled (aligning with the other aspects of the Bill that will have immediate legal effect from August 2022).

### **Developer interest**

Considering the Bill’s announcement, interest from developers is likely to occur well before August 2022 and in the interim upwards pressure on residential land prices may occur.

We ask that the Government produce guidance on how local authorities should consider the MDRS when the Bill is enacted in late 2021 but prior to the inclusion of the standards in proposed plans, when they will have legal effect.

### **Objectives and policies**

It is recommended that the consistent objectives and policies for the standards are drafted nationally by the Ministry for the Environment for inclusion in proposed plans. This will ensure breaches are interpreted consistently with the intent of the

standards, which have not been developed by individual councils. If this is not done, then guidance should be provided.

### **Tier 2 – acute housing need**

The Bill enables regulations to be made requiring a Tier Two territorial authority to prepare a plan change or variation to a proposed district plan to incorporate the MDRS and policy 5. There is limited information in the Bill regarding the determination of acute housing need. The proposed affordability indicator is likely to be a poor proxy for demand and/or supply indicators and ignores the work already done as councils have completed the housing assessment aspect of their new housing and business development capacity assessments. It is also unlikely that applying the MDRS to most residential zones, for example Low Density Residential Zones, in Tier Two councils will always be suitable.

Taituarā therefore requests that the use of regulations to include Tier Two councils is removed from the Bill. Given the RM Reform programme that is proceeding at pace, the Natural and Built Environment Act and new Planning Framework could be more suitable vehicles for accelerating housing development within an integrated approach across all councils.

Alternatively further engagement on the use of regulations and their ambit occurs prior to their use to ensure the potential issues and impacts are well understood, lessons are learnt from the Tier One councils and risks are minimised.

### **Overall constraints within the house building system**

Taituarā notes that in several of the Tier One councils (such as Auckland and Christchurch) there is already sufficient surplus of housing enabled in their District Plans and that there is sufficient, feasible, capacity within the Future-Proof sub-region.

We are concerned that the Bill's intent to accelerate housing development will not be realised given the current constraints within the supply chain, the shortage of construction workers and the housing construction industry being at full capacity. While there are no simple answers to this situation, we encourage the Government to continue to work with the construction and education sectors, stakeholders and councils to ensure all aspects of the system are addressed.

### **Recommendations:**

- 17. Officials ensure that the drafting in the Bill supports the National Planning Framework and avoids inconsistent terms and concepts e.g. Replace the term the term “community centres” with “community services”**
- 18. Retain provisions in the Bill to enable Financial Contributions to be required from permitted developments from the date the development becomes permitted.**
- 19. MfE draft consistent objectives and policies for the standards for inclusion in proposed plans.**
- 20. Reconsider the application of the Bill to Tier Two Councils and the use of housing affordability as an appropriate indicator of acute housing need.**

## **Conclusion**

We appreciate the bi-partisan desire to move at pace to implement the NPS-UD and address the significant housing need in Aotearoa. We think there are opportunities to improve the Bill to achieve this and encourage engagement with the Tier One council officials to ensure the significant work already done by councils informs the future Act, improves wellbeing and avoids unintended consequences. We are happy to put together a Working Group to assist MfE refine the proposal.