

Departmental Disclosure Statement

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| Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill |
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry for the Environment and the Ministry of Housing and Urban Development.

The Ministry for the Environment and the Ministry of Housing and Urban Development certify that, to the best of their knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

4 October 2021

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Part One: General Policy Statement

This Bill which amends the Resource Management Act 1991 (the RMA) seeks to rapidly accelerate the supply of housing where the demand for housing is high. This will help to address some of the issues with housing choice and affordability that Aotearoa New Zealand currently faces in its largest cities.

This Bill requires territorial authorities in Aotearoa New Zealand's major cities to set more permissive land use regulations that will enable greater intensification in urban areas by bringing forward and strengthening the National Policy Statement on Urban Development (the NPS-UD).

The NPS-UD was gazetted in August 2020 and addresses restrictive land use regulations. It is a powerful tool for improving housing supply in Aotearoa New Zealand's urban areas. The NPS-UD classifies urban areas as tier 1, tier 2, and tier 3 urban environments, with tier 1 comprising Aotearoa New Zealand's largest cities.

The NPS-UD requires, among other things, that tier 1 territorial authorities amend their RMA plans to enable intensification in urban areas where people want to live and work. However, using the current process for plan-making, territorial authorities will take until at least August 2024 to deliver the additional housing development capacity unlocked by the NPS-UD.

This Bill brings forward the implementation of the NPS-UD intensification policies by using the existing Streamlined Planning Process (the SPP) with appropriate modifications. The SPP is an alternative to the process under Schedule 1 of the RMA that territorial authorities use when making or changing their plans. Its purpose is to provide an expeditious planning process, with limited appeal rights on certain matters. The modified process introduced in this Bill is the Intensification Streamlined Planning Process (the **ISPP**).

In addition to this, the Bill introduces medium density residential standards (the MDRS) in all tier 1 urban environments. These will enable medium density housing to be built as of right (at least 3 dwellings of up to 3 storeys per site) across more of Aotearoa New Zealand's urban environments. For tier 1 territorial authorities, plan changes or plan variations that implement the intensification policies and incorporate the MDRS are known as intensification planning instruments. This Bill directs tier 1 territorial authorities to notify intensification planning instruments by August 2022.

These amendments to the RMA are needed to—

- increase housing development capacity and promote provision of a wider variety of housing types in major cities. Implementation of the MDRS will enable increased housing supply and provision of dwelling types such as townhouses, flats, apartments, and other smaller dwellings. Such dwellings can be offered at a range of different price points, offering New Zealanders a

wider variety of housing options to suit their needs at different points in their lives. This will enable more people to live affordably in areas closer to their work, community facilities, and services:

- strengthen and accelerate the impact of the NPS-UD, by bringing forward implementation of the intensification policies of the NPS-UD using the ISPP. The ISPP and introduction of the MDRS (with immediate legal effect from the notification date of an intensification planning instrument) will enable housing intensification to occur faster, helping to alleviate some of the immediate housing shortages:
- encourage low-carbon cities through the provision of denser housing, especially within cities and metropolitan areas, near public transport hubs, or within walkable catchments of city or metropolitan centres. This Bill also encourages intensification in areas adjacent to smaller suburban centres in tier 1 urban environments where there are community services and commercial activities. These areas are likely to be serviced by current public transport routes or will likely be serviced by planned public transport routes. This will promote more efficient use of infrastructure and greater use of public transport:
- provide for multi-generational or extended family living arrangements by increasing the number of dwellings allowed on a site. The MDRS will provide opportunities to build additional units on current residential properties. This may reduce overcrowding and improve health outcomes, particularly for Māori and Pacific individuals, families, and whānau that may prefer extended family living arrangements:
- reduce overall costs to territorial authorities and their communities by providing a quicker and less litigious RMA plan-making process (the ISPP). This Bill will reduce resource consent requirements and the number of resource consent applications needed to build new houses or extend existing houses. Changes to policy 3(d) of the NPS-UD remove sub-city level demand assessments from tier 1 councils that may have been required to implement the existing policy 3(d)
- ensure that the MDRS are integrated with the existing provisions of the NPS-UD by amending the NPS-UD. These amendments will occur through empowering the Minister for the Environment, in consultation with the Minister of Housing, to make consequential amendments to the NPS-UD.

Medium density residential standards (MDRS)

The MDRS will enable 3 storeys and 3 dwellings per site as of right. This means that developments of 3 storeys and 3 dwellings per site will be permitted activities in the

RMA plans of territorial authorities, removing the need for a resource consent. The MDRS will also enable—

- more flexible height in relation to boundary standards to enable 3 storeys on average-sized sites:
- smaller private outlook spaces (space between windows and other buildings) and private outdoor living spaces (for example, balconies):
- reduced side yard setbacks to allow development closer to side boundaries:
- more resource consents (when needed) to proceed on a non-notified basis.

Territorial authorities that must apply MDRS

The MDRS will be applied by tier 1 territorial authorities. Tier 1 urban environments are Auckland, Hamilton, Tauranga, Wellington, and Christchurch. There are 14 tier 1 territorial authorities that are responsible for all or part of those tier 1 urban environments.

Where a tier 2 urban environment has acute housing need, the Minister for the Environment, in consultation with the Minister of Housing, may recommend an Order in Council is made to require the relevant territorial authority to develop an intensification planning instrument, incorporating the MDRS using the ISPP.

Tier 2 urban environments are Whangārei, Rotorua, New Plymouth, Napier, Hastings, Palmerston North, Nelson, Tasman, Queenstown, and Dunedin. There are 10 tier 2 territorial authorities that are responsible for all or part of those tier 2 urban environments.

Areas that MDRS will apply to

Relevant territorial authorities will be required to apply the MDRS to all existing residential areas, except for areas zoned as large lot residential (as described in the National Planning Standards) or areas where qualifying matters apply.

Areas in tier 1 urban environments that are being rezoned as residential (for example, greenfield development) will also be required to apply the MDRS.

Qualifying matters

There may be areas that have specific characteristics that make it inappropriate to apply the MDRS in full. An example is the potential need to give effect to other national policy statements. These characteristics are referred to as qualifying matters. A qualifying matter exists where there is a need to balance the heights, densities and other standards of the MDRS against the need to manage these specific characteristics.

Qualifying matters for applying the MDRS are the same as those defined within clause 3.32 of the NPS-UD. Where a qualifying matter applies, the relevant territorial authority may amend the densities and heights required by the MDRS as appropriate to accommodate the qualifying matter.

Where a relevant territorial authority determines that a qualifying matter limits the application of the MDRS, the authority must provide evidence to support this in its evaluation report, as required under section 32 of the RMA. Accommodating the qualifying matter must be balanced against the national significance of urban development and the objectives of the NPS-UD.

Immediate legal effect of MDRS

Residential zones implementing the MDRS will have immediate legal effect from the notification date of the intensification planning instrument, except for—

- areas proposing greater heights under the NPS-UD intensification policies than that listed in the MDRS as a permitted activity:
- areas where a qualifying matter has been identified:
- areas that were not previously relevant residential zones (for example, greenfield development or large lot residential areas).

This means the MDRS will have full weight in determining consent applications lodged on or after the date the intensification planning instrument is notified by a relevant territorial authority. All relevant territorial authorities must notify their intensification planning instruments no later than 20 August 2022, except in the instance an Order in Council directs a tier 2 territorial authority to implement the MDRS later than this date.

Territorial authorities will integrate the MDRS into their RMA planning documents using the ISPP.

Intensification streamlined planning process (ISPP)

This Bill introduces the ISPP, a modified streamlined RMA planning process for implementing the intensification policies of the NPS-UD. The ISPP establishes a set of standardised process steps that relevant territorial authorities will use to develop an intensification planning instrument. It will also be used to implement the MDRS.

This process will be quicker than the standard process under Schedule 1 of the RMA and will bring forward the outcomes sought by the intensification policies of the NPS-UD.

Territorial authorities will be required to use the ISPP to implement policies 3 and 4 (or policy 5 as relevant) of the NPS-UD. The Minister for the Environment will have

the power to make a direction to specify additional requirements that apply to a territorial authority undergoing the ISPP.

ISPP standardised process steps

The standardised process steps territorial authorities will follow when developing an intensification planning instrument using the ISPP are as follows:

- step 1: prenotification consultation and engagement with iwi about the intensification planning instrument:
- step 2: intensification planning instrument is notified and the MDRS has immediate legal effect:
- step 3: submissions on the notified intensification planning instrument:
- step 4: further submissions on the notified intensification planning instrument:
- step 4a (optional): prehearing mediation:
- step 5: independent hearing panel (IHP) to conduct hearings on the intensification planning instrument:
- step 6: IHP report to territorial authority with recommendations:
- step 7: territorial authority makes its decisions:
- step 7a: (if required): if the territorial authority does not agree with the IHP's recommendations, the Minister for the Environment will become the decision-maker:
- step 8: intensification planning instrument is operative (including components that give effect to policies 3 and 4, or 5, of the NPS-UD).

IHPs

The ISPP requires the relevant territorial authority to appoint an IHP. The territorial authority will delegate its responsibilities for conducting hearings to the IHP. The IHP will then report its recommendations to the territorial authority. These recommendations are not limited to the scope of submissions received by the IHP and may also include recommendations on other matters related to the intensification planning instrument.

Decision-making within ISPP

The territorial authority remains the primary decision-maker on an intensification planning instrument. However, if a territorial authority decides not to adopt the IHP's recommendations, the Minister for the Environment becomes the decision-maker on

those recommendations. The Minister for the Environment can accept the IHP's recommendations or make alternative recommendations.

Once a decision is issued, the RMA plan becomes operative. There are no appeals on intensification planning instruments that go through the ISPP. This will ensure intensification planning instruments are operative by mid-2023. If territorial authorities use a process under Schedule 1 of the RMA as they are currently required to, these RMA plan changes would not be operative until August 2024 or later.

Modification of policy 3(d) of the NPS-UD

The Bill modifies policy 3(d) to reduce the application of the policy and therefore the scope of the assessment required by councils. Councils will now be required to enable building heights and density of urban form commensurate with the level of commercial activities and community services within and adjacent to zones described in the National Planning Standards as neighbourhood centre zones, local centre zones and town centre zones (or equivalent zones).

Beyond these areas, councils will have the flexibility to determine whether to introduce more permissive zoning than the MDRS requires. This provides councils more ability to intensify housing in areas they see as appropriate, and in line with existing spatial plans.

Transitional provisions to provide clarity on when proposed plans or private plan change requests need to be withdrawn

There may be tier 1 territorial authorities that are currently preparing plan changes or variations to proposed plans to implement the NPS-UD intensification policies. These territorial authorities may need to adjust their proposed plans once this Bill is enacted. For this reason, the Bill requires that proposed plans, or private plan changes accepted, are to be withdrawn where it can be determined that the proposed instrument—

- intends to give effect to intensification policies of the NPS-UD:
- proposes changes to a residential zone that will be subject to the MDRS:
- creates a new relevant residential zone that does not incorporate the MDRS:
and
- has been notified on or before the enactment of the Bill but a hearing under clause 8B of Schedule 1 is not completed on or before 20 February 2022.

Territorial authorities will be required to use clause 8D of Schedule 1 of the RMA to withdraw those plan changes or proposed plan variations.

Empowering Ministers to make consequential amendments to NPS-UD

This Bill will empower the Minister for the Environment, in consultation with the Minister of Housing, to make changes to the NPS-UD to—

- remove current or potential inconsistencies between the NPS-UD and this Bill once enacted:
- clarify the relationship between the NPS-UD and this Bill:
- amend the NPS-UD definition of “planning decision”.

In invoking this clause, the Minister will not be required to follow the standard process requirements for modifying national policy statements as laid out in the RMA.

Enabling amendment or inclusion of financial contributions provisions

This Bill clarifies that a local authority may amend its plan to require that financial contributions are charged for permitted activities.

Relevant territorial authorities may amend or include new financial contributions policies in their district plans through the ISPP. This will support relevant territorial authorities with the cost of development infrastructure that may be required to incorporate the MDRS.

Minor and technical amendment to section 224 of RMA

This Bill makes a minor and technical change to section 224 of the RMA, which relates to restrictions on the deposit of a survey plan. Section 224 currently cross-references section 11(1A)(b)(i) of the RMA, which restricts subdivision of land unless the subdivision is expressly allowed and is shown on a survey plan. When section 11(1A) was repealed this cross reference was not updated. This Bill will amend the RMA so that section 224 correctly refers to section 11(a)(i) and section 11(a)(iii) of the RMA. This change is minor and technical in nature and is not a policy change or addition.

Part Two: Background Material and Policy Information

Published reviews or evaluations

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| 2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill? | YES |
| <p>A number of reports have highlighted issues with the planning system in New Zealand and its impact on house prices. These include:</p> <p>Lees. (2017). <i>Quantifying the Impact of Land Use Regulation: Evidence from New Zealand</i>. https://thehub.swa.govt.nz/assets/documents/Impact_land_use-fullreport_110717.pdf</p> <p>MRCagney. (2019). <i>The Costs and Benefits of Urban Development</i>. https://environment.govt.nz/publications/the-costs-and-benefits-of-urban-development/</p> <p>PricewaterhouseCoopers Consulting (New Zealand) LP. (2020). <i>A Methodology for Strategic Assessment of the Wider Costs and Benefits of Urban Growth – Methodology Report</i>. https://www.hud.govt.nz/assets/Urban-Development/Urban-Growth-Agenda/Methodology-report-A-methodology-for-strategic-assessment-of-the-wider-costs-and-benefits-of-urban-growth.pdf</p> | |

Relevant international treaties

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| 2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty? | NO |
| <p>The Bill does not seek to give effect to Aotearoa New Zealand action in relation to an international treaty, but does enable Aotearoa New Zealand to give effect to several, non-legally binding international agreements. These are identified in appendix one.</p> | |

Regulatory impact analysis

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| 2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill? | YES |
| <p><i>Regulatory Impact Statement: Bringing Forward the Upzoning of Land for Housing</i> Authoring agency: Ministry for the Environment and Ministry for Housing and Urban Development Finalised: 20 May 2021 The Regulatory Impact Statement will be published to the Ministry for the Environment's website after policy announcements have been made. The RIS will also be available on the Treasury website after policy announcements have been made: https://www.treasury.govt.nz/publications/legislation/regulatory-impact-assessments</p> | |

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| 2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements? | YES |
| <p>Date: 20 May 2021</p> <p>A joint Regulatory Impact Analysis Review Panel (Panel) with representatives from Te Tūāpapa Kura Kāinga, Ministry for the Environment and the Treasury has reviewed the attached Regulatory Impact Statement. The Panel considers that the information and analysis summarised in the Regulatory Impact Statement (RIS) partially meets the quality assurance criteria necessary for Ministers to make decisions on the proposals in this paper. The information and analysis partially meets the RIS criteria for a few reasons:</p> <ul style="list-style-type: none"> • There has been no public consultation on the proposals, which means that the potential consequences identified in the RIS are not fully understood. The Panel wishes to particularly highlight the lack of consultation with local councils, which may pose implementation risks for the policy proposals in this paper, and a broader risk to the relationship between central and local government. • The RIS could also better support decision-making through improvements to clarity of message, presentation of information and greater use of quantitative evidence to support options assessment. | |

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| 2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements? | YES |
| <p>Under the Bill, the Minister for the Environment will have the ability to recommend an Order in Council is made, requiring a nominated tier 2 urban environment to implement the Medium Density Residential Standards (MDRS) and/or the Intensification Special Planning Process (ISPP). This policy was not covered by the RIS, as policy was still being finalised.</p> <p>This Bill will also amend the National Policy Statement on Urban Development (NPS-UD) policy 3(d) to reduce the application of the policy and therefore reduce the scope of the assessment required by councils. Councils will now be required 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 (or equivalent zones). This policy was not addressed by the RIS as this policy change was initiated by Ministers after the RIS had been finalised.</p> <p>Other policy elements do not vary from those covered in the RIS.</p> | |

Extent of impact analysis available

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| 2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill? | NO |
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| 2.5. For the policy to be given effect by this Bill, is there analysis available on: | |
| (a) the size of the potential costs and benefits? | YES |
| (b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth? | NO |
| <p>The cost benefit analysis (CBA) for the NPS-UD outlined expected costs and benefits from its implementation. The ISPP is expected to bring these benefits forward in time, but not alter them significantly. The CBA can be found at: https://environment.govt.nz/publications/cost-benefit-analysis-on-the-national-policy-statement-for-urban-development/</p> <p>The RIS outlines the various ways that existing literature and analyses have informed the Ministry for the Environment and Ministry of Housing and Urban Development's analysis of the likely effect of the MDRS.</p> | |

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| 2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by: | |
| (a) the level of effective compliance or non-compliance with applicable obligations or standards? | NO |
| (b) the nature and level of regulator effort put into encouraging or securing compliance? | NO |

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

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| 3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations? |
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A search was conducted on the Ministry of Foreign Affairs and Trade's Treaty Register Database, using the keywords: 'home'; 'housing'; 'house'; 'shelter'. No relevant Treaties were found.

However, the Bill is consistent with Aotearoa New Zealand's non-binding international obligations. These obligations are identified in appendix one.

Consistency with the government's Treaty of Waitangi obligations

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| 3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi? |
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Priority for this policy was ensuring that Part 2 of the RMA could be complied with – as this sets out matters of national importance, including the relationship of Māori and their cultural traditions with their ancestral lands, water, sites, waahi tapu, and other taonga. To achieve this, this policy adopts the same approach as the National Policy Statement on Urban Development (NPS-UD), which enables areas to be exempt from intensification if intensification is inappropriate due to RMA section 6 matters. Councils can also exempt areas if intensification would be inconsistent with iwi participation legislation.

The needs of Māori also informed policy development more broadly. A core aim of this policy is to enable a wider range of housing types. The current lack of affordable housing disproportionately impacts Māori, and traditional forms of Māori housing, such as multi-generational and multi-unit housing have not been supported by the planning system. The Bill aims to address these gaps by enabling increased housing development capacity overall and promoting supply of a wider range of housing types at a range of price points, including multi-generational and multi-unit housing.

We have not yet consulted with iwi, hapū and Māori about the Bill but expect to engage with iwi, hapū and Māori through the select committee process.

Consistency with the New Zealand Bill of Rights Act 1990

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| 3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990? |
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YES

The New Zealand Bill of Rights Act 1990 (Bill of Rights) compliance report will appear here once vetting is completed: <https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/bill-of-rights-compliance-reports/>

Offences, penalties and court jurisdictions

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| 3.4. Does this Bill create, amend, or remove: | |
| (a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)? | NO |
| (b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)? | YES |
| <p>The Bill introduces the ISPP for developing an intensification planning instrument. Appeal rights on decisions made under an ISPP will not be available except for judicial review. This is necessary because allowing appeals:</p> <ul style="list-style-type: none"> • could result in status quo bias, with residents in favour of lower density housing using the appeals process to oppose the intensification brought forward by the ISPP; • could create a litigious process for territorial authorities in areas where residents favour lower density housing; • could undermine the intent of the ISPP, which is to bring forward the outcomes sought by the NPS-UD; • further delay increases in housing supply. This would allow Aotearoa New Zealand's housing crisis to worsen. <p>To mitigate concerns about natural justice and fairness that may be raised in the removal of appeal rights, appropriate checks and balances have been built into the ISPP. The ISPP:</p> <ul style="list-style-type: none"> • can only be used to implement the intensification policies of the NPS-UD, to incorporate the MDRS and amend or include financial contributions provisions to support incorporation of the MDRS. As such, the scope of plan content that will go through the ISPP is limited; • relies on the appointment of an independent hearing panel to make recommendations on the intensification planning instrument to a relevant territorial authority. The Minister is empowered to make a direction that specifies the number of panel members, and the level of experience and knowledge required of panel members; • in the instance that a relevant territorial authority does not agree with the IHP's recommendations, the Minister will become the decision-maker; • the Minister is empowered to make a direction to relevant territorial authorities using the ISPP. This direction could include a statement of expectations for relevant territorial authorities, or create a requirement for territorial authority to monitor and report back on certain matters; • Under s142 of the RMA, the Minister is empowered to call in a matter that is or is part of proposal of national significance. This includes proposed plans; • Judicial review is available. | |

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| 3.4.1. Was the Ministry of Justice consulted about these provisions? | YES |
| <p>The Ministry of Justice (MoJ) was consulted twice, including when seeking feedback on:</p> <ul style="list-style-type: none"> the Cabinet paper, <i>Bringing forward and strengthening the National Policy Statement for Urban Development</i> as part of the departmental consultation process; the Bill's compliance with the New Zealand Bill of Rights Act 1990 (Bill of Rights). <p>MoJ was not consulted about the removal of appeals rights under the ISPP. This is because the ISPP is a modified version of the Streamlined Planning Process (SPP), an existing planning process within the RMA that provides councils with an expeditious process for developing or amending a plan. It was designed to enable a faster planning process for urgent issues, or where there is a community need, as well as faster implementation of national direction. The SPP is a faster planning process because it removes appeal rights.</p> | |

Privacy issues

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| 3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information? | NO |
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| 3.5.1. Was the Privacy Commissioner consulted about these provisions? | NO |
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External consultation

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| 3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill? | NO |
| There has been no consultation with external stakeholders on the Bill. | |

Other testing of proposals

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| 3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete? | NO |
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Part Four: Significant Legislative Features

Compulsory acquisition of private property

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| 4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property? | NO |
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Charges in the nature of a tax

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| 4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax? | NO |
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Retrospective effect

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| 4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively? | NO |
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Strict liability or reversal of the usual burden of proof for offences

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| 4.4. Does this Bill: | |
| (a) create or amend a strict or absolute liability offence? | NO |
| (b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding? | NO |

Civil or criminal immunity

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| 4.5. Does this Bill create or amend a civil or criminal immunity for any person? | NO |
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Significant decision-making powers

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| 4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests? | NO |
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Powers to make delegated legislation

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| 4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation? | NO |
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| 4.8. Does this Bill create or amend any other powers to make delegated legislation? | YES |
| <p>This Bill creates a power for the Governor General to make an Order in Council (OIC), upon recommendation by the Minister for the Environment, requiring a specified tier 2 territorial authority to undertake the ISPP and implement the MDRS. In recommending that an OIC be made, the Minister must consult with the Minister of Housing and consider evidence of acute housing need, including the ratio of median house price to household income.</p> <p>The evidence specified in the Bill acts as a safeguard to ensure that the power to make delegated legislation is limited. The Minister for the Environment is only empowered to recommend creation of delegated legislation after consulting with the Minister of Housing, and only when a tier 2 urban environment demonstrates specific characteristics that are identified within the Bill.</p> <p>This power is necessary, as implementation of the ISPP and MDRS could be highly effective at alleviating housing pressures in tier 2 urban environments, but their application is unlikely to be appropriate in all circumstances.</p> <p>The Bill creates a power for the Minister to make a direction for one or more relevant territorial authorities. This direction can specify:</p> <ul style="list-style-type: none"> • requirements for IHPs— including the number of panel members, and the level of experience and qualifications that a person must meet before being appointed to an IHP; • one or more periods of time by which the relevant territorial authority must complete one or more stages of the ISPP; • matters on which the relevant territorial authority must report; • a statement of expectations for the relevant territorial authority. <p>The specific list of matters for which the Minister can make direction acts as a safeguard to ensure that the power to make delegated legislation is limited. The power to make a direction allows the Minister to tailor timeframes and elements of the ISPP to better suit the characteristics of specific urban environments and associated territorial authorities, as necessary.</p> | |

Any other unusual provisions or features

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| 4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment? | NO |
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Appendix One: Further Information Relating to Part Three

Consistency with Aotearoa New Zealand's international obligations – question 3.1

The NZ Human Rights Commission has identified Aotearoa New Zealand's non-legally binding international obligations for housing in its August 2021 publication, *Framework Guidelines on the Right to a Decent Home in Aotearoa*. It can be accessed here: <https://www.hrc.co.nz/our-work/economic-and-social-rights/housing/>

The overarching intent of the Bill is to increase housing supply, choice and affordability for New Zealanders. In doing so, the Bill helps Aotearoa New Zealand to give effect to the following international agreements:

- *Universal Declaration of Human Rights*. Article 25 states that: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control".
<https://www.un.org/sites/un2.un.org/files/udhr.pdf>
- *Convention on the Rights of the Child*. Article 27 states that: "Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child... and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing".
<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- *Convention on the Rights of Persons with disabilities*. Article 28 states that persons with disabilities have the right to: "an adequate standard of living...including adequate housing".
<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>
- *United Nations Declaration on the Rights of Indigenous Peoples*. Article 21 states that indigenous peoples have the right to: "the improvement of their economic and social conditions... including...housing".
https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf
- *Sustainable Development Goals*. Goal 11, Target 11.1 is: "By 2030, ensure access for all to adequate, safe and affordable housing and basic services...".
<https://sdg-tracker.org/cities>