



OIAD-392

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Thank you for your email of 29 August 2022 requesting the following under the Official Information Act 1982 (the Act):

- Please confirm if the Medium Density Residential Standards apply to resource consent applications submitted to a council before the local authority has notified the required plan change.
- Please provide information (legalisation, published guidance, etc.) that supports the answer to the above question.

*The reason I ask is that Upper Hutt City Council is not applying the MDRS to applications submitted before the plan changes were notified but Hutt City Council and Kapiti Coast District Council are retrospectively applying the MDRS.*

The Resource Management Act 1991 (RMA) requires Upper Hutt City Council to notify an intensification planning instrument. This requirement was added to the RMA through the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (Amendment Act). Section 77M of the RMA was inserted to provide for the effect of the requirements to include the MDRS in the district plan on new resource consent applications. However, that section only applies to applications which were lodged on or after the date the council's intensification planning instrument (IPI) is notified.

If an application for resource consent was lodged prior to notification of the IPI, the above does not apply, however, under Section 104 of the RMA, the decision maker must have regard to the provisions of a proposed plan, including the proposed IPI.

The Ministry for the Environment (the Ministry) has not produced any specific guidance on this topic. All guidance that has been produced to support implementation of the Amendment Act is available on the Ministry website here: <https://environment.govt.nz/what-government-is-doing/areas-of-work/urban-and-infrastructure/housing-intensification-enabled-by-rma-amendment-act/>

You have the right to seek an investigation and review by the Office of the Ombudsman in relation to this request, in accordance with section 28(3) of the Act. The relevant details can be found on their website at: [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz).

Please note that due to the public interest in our work the Ministry for the Environment publishes responses to requests for official information on our [OIA responses page](#) shortly after the response has been sent. If you have any queries about this, please feel free to contact our Ministerial Services team: [ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz).

Yours sincerely

Electronically approved by Lesley Baddon

Lesley Baddon  
**Director - Urban and Infrastructure Policy**

Released under the provision of  
the Official Information Act 1982