

Understanding the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021

General overview

This is one of a series of information sheets giving an overview of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (RMA-EHS). This factsheet is intended for a public audience and outlines the key changes introduced by the RMA-EHS.

Purpose of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act (RMA-EHS)

The RMA-EHS became law in December 2021. It is designed to increase housing supply in Aotearoa New Zealand's main urban areas by speeding up implementation of the National Policy Statement on Urban Development and enabling more medium-density homes through the Medium Density Residential Standards.

The RMA-EHS will remove barriers to development to allow for a wider variety of housing in Auckland, Hamilton, Tauranga, Wellington, Christchurch and Rotorua. Specified territorial authorities¹ will achieve more housing choices in their districts by implementing the National Policy Statement on Urban Development and incorporating the Medium Density Residential Standards into their district plans.

¹ Auckland Council, Hamilton City Council, Waikato District Council, Waipā District Council, Tauranga City Council, Western Bay of Plenty District Council, Wellington City Council, Porirua City Council, Hutt City Council, Upper Hutt City Council, Kāpiti Coast District Council, Christchurch City Council, Selwyn District Council, Waimakariri District Council and Rotorua District Council.

Alignment with resource management reform

The RMA-EHS supports the Government's wider objectives for housing reform and resource management reform. It also supports the Government's urban development and climate change goals.

The policy intent of the RMA-EHS, including both the National Policy Statement on Urban Development and Medium Density Residential Standards, will be transitioned into wider resource management reform.

Background to the National Policy Statement on Urban Development

The National Policy Statement on Urban Development has objectives and policies that territorial authorities must give effect to in their district plans. It came into force in 2020 and requires territorial authorities to ensure their plans allow for growth both 'up' and 'out', and that their planning rules are not limiting growth.

The RMA-EHS directs the timing for territorial authorities to implement the intensification policies (policy 3 and 4, or policy 5) of the National Policy Statement on Urban Development.

For more guidance on the National Policy Statement on Urban Development, see [National Policy Statement on Urban Development](#).

Key changes introduced by the RMA-EHS

The RMA-EHS introduces a new planning process to support territorial authorities to implement the intensification policies in the National Policy Statement on Urban Development and include the Medium Density Residential Standards in their district plans. This new process is called the Intensification Streamlined Planning Process.

The Intensification Streamlined Planning Process is based on the existing, streamlined planning process under the Resource Management Act 1991 (RMA). Territorial authorities must progress a plan change (or variation to a proposed plan) through this process to give effect to policy 3 or policy 5 of the National Policy Statement on Urban Development and to include the Medium Density Residential Standards in their district plans.

The Medium Density Residential Standards allow for building up to three homes of up to three storeys on each site in relevant residential zones without needing resource consent. However, you may still need resource consent for earthworks or other matters relevant to the site under the district plan. You will still need building consent under the Building Act to construct and develop with the Medium Density Residential Standards.

Medium Density Residential Standards

Overview

Territorial authorities' district plans must include the density standards in table 1 below (or standards that enable greater development). District plans must also provide for the other aspects of the Medium Density Residential Standards as set out in the RMA-EHS.

You don't usually need to apply for a resource consent for a permitted activity, although you may apply for a certificate of compliance to give you certainty.

Table 1: Medium Density Residential Standards

| Density standard | | |
|--------------------------------------|---------|---|
| Number of residential units per site | Maximum | 3 |
| Building height | Maximum | 11 m + 1 m for pitched roof |
| Height in relation to boundary | Maximum | 4 m + 60° recession plane |
| Setbacks | Minimum | Front yard: 1.5 m Side yard: 1 m Rear yard: 1 m (excluding on corner sites) |
| Building coverage | Maximum | 50% of the net site area |
| Outdoor living space (one per unit) | Minimum | Ground floor: 20 m ² , 3 m dimension Above ground floor: 8 m ² , 1.8 m dimension |
| Outlook space (per unit) | Minimum | Principal living room: 4 m depth, 4 m width All other habitable rooms: 1 m depth, 1 m width |
| Windows to street | Minimum | 20% glazing of the street-facing facade |
| Landscaped area | Minimum | 20% of the developed site with grass or plants |

For more guidance on the Medium Density Residential Standards, see [Medium Density Residential Standards: A guide for territorial authorities](#).

Immediate legal effect

The RMA-EHS provides that immediate legal effect applies to some permitted activity rules which incorporate the Medium Density Residential Standards from the notification date of the intensification planning instrument (see the section below on timeframes). This immediate legal effect applies if the rules in the proposed plan change are in a relevant residential zone and are the same as the density standards in Part 2 of Schedule 3A.

There are some exceptions to immediate legal effect, including if a density standard that is proposed to be more enabling and in areas where a qualifying matter has been identified. More details are provided in the [guidance for the Intensification Streamlined Planning Process](#).

Qualifying matters

Territorial authorities can modify the Medium Density Residential Standards if a qualifying matter applies to an area that would make higher density inappropriate. For example, areas with natural hazards or where Treaty of Waitangi commitments must be upheld.

Intensification should not necessarily be excluded from an area where a qualifying matter applies. Instead, the territorial authority can modify the level of intensification. This could include:

- reducing building heights
- lowering densities

Land-use and subdivision rules

Land-use rules

The RMA-EHS sets out that the construction and use of a building, if it complies with the density standards (see table 1), will be a permitted activity. This includes three residential units of up to three storeys, and any other building on the site.

The construction and use of four or more residential units that comply with the density standards, or one to three residential units that do not comply with the density standards, needs a resource consent (land-use consent) as a restricted discretionary activity. This requirement only applies to residential units and not to any other building on the site (which may require consent depending on the relevant rules in the district plan). When assessing a resource consent for a restricted discretionary activity, the territorial authority is restricted to considering matters identified under the relevant rule.

Public notification

- Public notification is not permitted for restricted discretionary activity applications to construct and use one to three residential units that **do not comply** with the density standards is not allowed.
- Public and limited notification is also not permitted for restricted discretionary activity applications for the construction and use of four or more residential units **that comply** with the density standards.

Subdivision

Subdivision involving constructing and use of residential units needs a subdivision resource consent as a controlled activity to meet the land-use rules within the Medium Density Residential Standards. This is whether or not a vacant lot is created. It is also subject to section 106 of the RMA, which provides for assessment for natural hazards and site access.

Public notification

- Public and limited notification is not allowed for consent applications for controlled activity subdivision that comply with the rules in the Medium Density Residential Standards.

A proposed, controlled activity subdivision must be consistent with the level of development permitted under the above land-use rules. Territorial authorities may include in their district plans suitable, size-related requirements for vacant lot subdivision. However, they cannot specify a minimum lot size, shape size or other size-related requirements for subdivisions in the following two scenarios:

- for any allotment with an existing residential unit if:
 - the subdivision does not increase the degree of any non-compliance with the density standards (or where land-use consent has been granted) and no vacant allotments are created
- for any allotment without an existing residential unit (where a subdivision application is accompanied by a land-use application that will be determined at the same time) if the applicant can show that:
 - it is practicable to construct (on every new allotment being proposed) a residential unit that meets the density standards and is a permitted activity, and no vacant allotments are created.

Intensification Streamlined Planning Process

Plan change requirements

Under the RMA-EHS, all territorial authorities must notify a plan change (the intensification planning instrument) that includes the intensification policies of the National Policy Statement on Urban Development and the Medium Density Residential Standards.

The scope of the plan change also includes provisions for:

- financial contributions
- papakāinga housing
- related provisions (including objectives, policies, rules, standards and zones) that support, or are consequential to, the Medium Density Residential Standards or the National Policy Statement on Urban Development intensification policies.

Territorial authorities can only progress a plan change through the Intensification Streamlined Planning Process once.

Territorial authorities

The RMA-EHS requires tier 1 territorial authorities to prepare and notify a plan change that gives effect to the Medium Density Residential Standards and intensification policies of the National Policy Statement on Urban Development.

However, both tier 2 and tier 3 territorial authorities can also be required to do this.² Table 2 shows the requirements for tier 1, 2 and 3 territorial authorities under the RMA-EHS.

² The RMA-EHS does not exempt tier 2 or tier 3 councils from giving effect to the National Policy Statement on Urban Development required timeframes for implementation.

Table 2: Requirements for territorial authorities under the RMA-EHS

| Tier | Territorial authorities | Requirement to prepare and notify a plan change |
|------------------------------|---|--|
| Tier 1 territorial authority | Auckland Council, Hamilton City Council, Waikato District Council, Waipā District Council, Tauranga City Council, Western Bay of Plenty District Council, Wellington City Council, Porirua City Council, Hutt City Council, Upper Hutt City Council, Kāpiti Coast District Council, Christchurch City Council, Selwyn District Council, Waimakariri District Council | All tier 1 territorial authorities are required to prepare and notify a plan change that incorporates the Medium Density Residential Standards and gives effect to policy 3 of the National Policy Statement on Urban Development. |
| Tier 2 territorial authority | Whangārei District Council, Rotorua District Council, New Plymouth District Council, Napier City Council, Hastings District Council, Palmerston North City Council, Nelson City Council, Tasman District Council, Queenstown Lakes District Council, Dunedin City Council | The Minister for the Environment may recommend regulations to require a tier 2 territorial authority to prepare and notify a plan change that incorporates the Medium Density Residential Standards and gives effect to policy 5 of the National Policy Statement on Urban Development. |
| Tier 3 territorial authority | All other territorial authorities with jurisdiction over an “urban environment”. An “urban environment” is defined in the National Policy Statement on Urban Development as “any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that: (a) is, or is intended to be, predominantly urban in character; and (b) is, or is intended to be, part of a housing and labour market of at least 10,000 people”. | A tier 3 territorial authority may ask the Minister for the Environment to recommend the making of regulations requiring that territorial authority to prepare and notify a plan change that incorporates the Medium Density Residential Standards and gives effect to policy 5 of the National Policy Statement on Urban Development. |

On 14 March 2022, an Order in Council was made to incorporate Rotorua District Council in the requirements of the RMA-EHS. This means the council must use a plan change and the Intensification Streamlined Planning Process to give effect to Policy 5 of the National Policy Statement on Urban Development, and it must include the Medium Density Residential Standards in its district plan.

Timeframes

The RMA-EHS sets out different notification timeframes for territorial authorities depending on their tier:

- All tier 1 territorial authorities and Rotorua District Council must notify a plan change by 20 August 2022.
- Any tier 2 territorial authority that is regulated to prepare a plan change on or after 21 March 2022 must notify a plan change on or before the date specified in the applicable regulation.
- Any tier 3 territorial authority that is regulated to prepare a plan change must notify a plan change on or before the date specified in the applicable regulation.

The RMA-EHS lets the Minister for the Environment prepare a direction to support the Intensification Streamlined Planning Process. This may include timeframes for councils to complete the Intensification Streamlined Planning Process and other process requirements.

Any directions the Minister for the Environment may set for territorial authorities can be found in the related information on the [Housing intensification enabled by the RMA-EHS](#) web page.

For guidance on timeframes for consultation and submissions, see [Information on submitting](#).

Glossary

| Term | Meaning |
|--|---|
| Intensification Streamlined Planning Process | Based on the Streamlined Planning Process, the ISPP provides a process for preparing a change to a territorial authority's operative plan to achieve a quick and efficient planning process. |
| Medium Density Residential Standards | These are standards that specified territorial authorities must include in their district plans. They allow for building up to three homes of up to three storeys on sites in 'relevant' residential zones. |
| National Policy Statement on Urban Development | Introduced in 2020, the National Policy Statement on Urban Development has objectives and policies that territorial authorities must give effect to in their district plans. |
| Plan change | The process that councils use to prepare changes to an operative plan. |
| Relevant residential zone | These are all residential zones except for large, lot residential zones, offshore land, settlement zones, and urban areas with a population of less than 5000 (per 2018 census). The exception is urban areas which a local authority intends to become part of an urban environment. |
| Specified territorial authority | Every tier 1, 2 and 3 territorial authorities that must prepare and notify a plan change incorporating the Medium Density Residential Standards and giving effect to the intensification policies of the National Policy Statement on Urban Development. |
| Streamlined planning process | An alternative option to the standard planning process for a council to prepare a Resource Management Act (RMA) plan or plan change. The proposed RMA plan or plan change must meet certain criteria and be directed by the Minister for the Environment. |
| Territorial authorities | City or district councils. |
| Variation | A change prepared by a council to a proposed plan. |

