Regulatory Impact Statement: Bringing Forward the Upzoning of Land for Housing

Coversheet

Purpose of Document	
Decision sought:	The purpose of this analysis and advice is to inform final decisions to proceed with a policy change to be taken by Cabinet. This change would introduce two measures to upzone land for housing through changes to the Resource Management Act 1991.
Advising agencies:	Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development Ministry for the Environment
Proposing Ministers:	Minister of Housing Minister for the Environment
Date finalised:	20 May 2021

Problem Definition

New Zealand has a serious housing shortage that is making housing increasingly unaffordable. According to the OECD's Building for a Better Tomorrow report, New Zealand now has the least affordable housing market for the lowest income families and one of the most expensive housing markets relative to income in the OECD.

There are multiple drivers of the growth in house prices. A key structural issue is that the market is not building enough houses in the places we need.

A major constraint on the ability of the market to deliver housing is the planning system, under the Resource Management Act 1991 (RMA), which limits efficient land use. Zone provisions, the cumulative impact of rules, and lengthy appeal processes can hinder intensification and expansion in areas where it would otherwise contribute to housing supply.

The National Policy Statement on Urban Development (NPS-UD) aims to address planning constraints. It requires, among other things, that councils responsible for urban areas amend their planning requirements to allow increased intensification of housing by enabling greater building heights and density. Under current timeframes these policies will not be fully implemented until at least August 2024 and likely longer.

Since the NPS-UD came into force in August 2020, the seriousness of the housing shortage has increased and heightened the need to accelerate the upzoning of land for housing.

Executive Summary

This paper considers interim measures to increase development capacity in the short to medium-term. The measures in this paper are designed to improve the efficiency of land use and bring forward housing development.

To allow increased possibilities for housing development to occur now, two key measures are proposed through amendments to the Resource Management Act 1991 (RMA). These are to:

- accelerate the implementation of NPS-UD intensification policies by requiring councils in Tier 1 urban environments (Auckland, Hamilton, Tauranga, Wellington and Christchurch) to use a modified streamlined planning process
- establish a default medium density residential zone (MDRZ) as a minimum in those same cities using the same streamlined planning process.

Significant housing capacity is expected to be unlocked, much faster, as a result of these measures. This will lead to a reduction in house price growth, relative to the counterfactual of no additional measures.

There is a wide range of evidence showing that restrictive land use regulation contributes to inefficient use of land and higher house prices. The information base is more limited with regard to the likely pattern and magnitude of supply that will result from the above measures.

These proposals will have mixed support. Many stakeholders recognise the need for these sorts of changes and submitters were largely supportive of the NPS-UD. However, some people are likely to be worried about the impact on their own properties and neighbourhoods.

Limitations and Constraints on Analysis

Limited options

- An early longlisting exercise identified a wide range of options to upzone land for housing, with light touch analysis estimating likely impacts and risks.
- As a result of this exercise, detailed policy work was only undertaken on the two options outlined in this paper.

Significant time constraints

- The analysis in this paper was produced in a short period with limited ability to undertake bespoke formal analysis. As a result, analysis is based on existing sources and largely qualitative.

Stakeholder engagement

- Due to time constraints, there has been no opportunity for consultation with external stakeholders. This limits the ability to test the feasibility of processes and other aspects of implementation.

Empirical data

- Well-established literature has shown that overly restrictive land-use rules increase house prices. There is also evidence supporting the beneficial effects of good intensification on carbon emissions and other aspects of wellbeing
- This includes the cost benefit analysis for the NPS-UD, which shows net benefits from intensification in Auckland, Hamilton, Tauranga, Wellington, Christchurch and Queenstown.
- Bespoke modelling of the pattern and magnitude of development that would result if default MDRZ is implemented has not been undertaken. Instead, qualitative insights are drawn from other recent modelling exercises.

Responsible Manager(s) (completed by relevant manager)

Jessica Ranger

Manager

Urban Development Regulatory Tools

Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development

20 May 2021

Lesley Baddon

Director

Natural and Built Systems

Ministry for the Environment

20 May 2021

Quality Assurance (completed by QA panel)

Reviewing Agency:	Ministry for the Environment and Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development

Panel Assessment & Comment:	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: • 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.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

1. Access to affordable housing is one of New Zealand's persistent long-term challenges. There is unsustainable house price growth and increasing rents. This is having very real impacts on New Zealanders, with many families struggling to buy their own home, while others are struggling to find suitable rental accommodation and/or facing difficult choices between meeting their rent and meeting other essential needs.

2. High housing costs are driving an increase in inequality between those who own a home (particularly in desirable areas) and those who do not. This is resulting in adverse outcomes for those that do not own a home. Māori and Pacific peoples are over-represented in areas of unmet housing needs and homelessness and have been particularly hard-hit by high housing costs. Other groups, such as young people, are being locked out of housing as a result of high prices. This increasingly stark housing inequality, across current and future generations, risks undermining further our collective wellbeing and social stability.

3. There are multiple drivers of high house prices, including population growth, low interest rates and investor activity. A key structural issue is that the market is not building enough houses in the places we need. Those that are being built are not at prices that low to moderate income households can afford, whether for rent or home ownership.

4. There are a number of reasons that the market is not delivering the volume or kind of supply we need. These include planning constraints on the ability for developers to use land efficiently, inadequate infrastructure capacity, low productivity and capacity in the construction industry, and the fact that, in many places, it is not financially viable to build houses – whether for rent or home ownership – at prices that people can afford.

5. The policies considered in this paper aim to alleviate planning constraints on the ability for developers to use land efficiently within urban areas[1]. It does not consider the other barriers outlined above. This means that increasing development capacity alone will not be enough to increase supply. However, it is a necessary precursor and will complement interventions designed to address other barriers to increasing housing supply.

Land use issues and the Resource Management System

6. A major constraint on the ability of the market to deliver housing is the planning system under the Resource Management Act 1991 (RMA), which limits efficient land use. Zone provisions, the cumulative impact of rules, and lengthy appeal processes

[1] This paper does not consider regulations that constrain the competitive supply of urban land at the rural-urban boundary. The responsiveness policy of the NPS-UD aims to address this issue and came into effect in August 2020.

can hinder intensification and expansion in areas where it would otherwise contribute to a well-functioning urban environment.

7. These restrictions on the ability to increase housing supply mean that demand bids up the price of existing housing stock rather than contributing to greater housing construction in the short term (that is, planning restrictions reduce the *elasticity of supply*).

8. Rising land prices in areas of high demand such as inner-city suburbs of Auckland or Wellington should, in theory, support more intensive land use in these suburbs, yet this is not occurring due to restrictive rules and an unresponsive planning system. For instance, suburbs close to Auckland's CBD are zoned to only allow single dwellings, which prevents multi-unit housing close to jobs, transport options and services.

9. A wide range of New Zealand and international evidence has demonstrated the relationship between housing pressures and overly restrictive regulation[2]. For example, a report by Superu and Sense Partners in 2017[3] found land use regulations contributed to be between 15 and 56 per cent to the cost of housing in New Zealand's cities. This was as high as 48 per cent for houses in Wellington and 56 per cent in Auckland. There is little reason to consider this impact to have lessened substantially in the interim period.

10. Current planning processes under the RMA contribute to inefficient land markets in a number of ways. Planning practice under the RMA and supporting directives:

    a. lack long-term and integrated planning to provide development capacity. Planning decisions that aim to provide development capacity are not informed by adequate evidence and limited consideration is given to what capacity will – or can – be feasibly taken up

    b. lack recognition that cities change as they grow and largely reflect the views of a wealthy minority, which marginalises the views of other groups such as Māori, renters, younger people or ethnic minorities, who may have needs not being served by the status quo

    c. do not take into account the need for individual developers to assess the potential of a particular site. Plans often aim to predict exactly where developers will build, with the result that insufficient headroom is provided on development capacity margins

    d. result in slow, unresponsive development which, alongside infrastructure investment, has not kept pace with growth experienced in New Zealand cities

[2] An overview of this literature is outlined in Nunns (2019) https://cdn.auckland.ac.nz/assets/business/about/our-research/research-institutes-and-centres/CARE/the-causes-and-economic-consequences-of-rising-regional-housing-prices-in-new-zealand.pdf

[3] Quantifying the impact of land use regulation: Evidence from New Zealand. Impact_land_use-fullreport_110717.pdf (swa.govt.nz) (2017)

e. do not enable good urban outcomes. Reasons for this include a lack of weight being given to the importance of accessibility, climate change or the principles of the Treaty of Waitangi in RMA decisions.

11. As a result of these restrictions, increases in housing supply has not kept up with increases in demand over the last 40 years. Estimates of the shortage range between 40,000 and 130,000 houses. House consents recently reached their highest since the 1970s; however adjusting for population size, in 1973 13.4 new homes were consented per 1000 residents, compared to only 7.8 per 1000 in 2020[4].

The NPS-UD was introduced to address these issues but under current settings will not have an impact for some and may be insufficient

12. The Government developed the NPS-UD in recognition of these problems. The NPS-UD came into force in August 2020. The major policies in the NPS-UD include:

    a. Intensification – council plans need to enable greater height and density in areas of high demand and access for housing and businesses

    b. Car parking – councils are no longer able to require developers to provide car parking through their plans (except accessible car parks for those with a disability or limited mobility)

    c. Responsiveness – councils must consider private plan changes where they would add significantly to the development capacity, enable good outcomes, and are well connected to transport corridors.

13. Councils are required to notify proposed plan changes that meet the intensification policies by August 2022[5]. However, plan changes are not likely to become operative until at least two years after this and likely longer. This is because councils are likely to follow the standard Schedule 1 process in the RMA to update their plans. Under the Schedule 1 process, councils have up to two years to complete submissions, hearings, and release the decisions following notification of proposed plans. Final plans can be further delayed if aspects are appealed, which is likely in this case. Development cannot commence until any relevant appeals on the plans are resolved.

Resource Management Reforms

14. Over the longer term the future resource management (RM) system aims to improve planning practice by taking a more strategic approach to planning (including through national direction and regional spatial strategies), focusing decision-makers on planning for positive outcomes, and improving the system efficiency and reducing unnecessary costs. The net result of this should be a long-term increase in the efficiency of land use.

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[4] Long term building consent numbers can be found at: https://www.stats.govt.nz/news/45-year-high-for-new-home-consents. Consent number by population is HUD's own calculation.

[5] Although councils could notify earlier, most plans are likely to be notified close to this deadline.

15. The timeframes for RM reform are long-term, with legislation to be passed in late 2022/early 2023, and the transition to the new system taking a number of years after that.

What is the policy problem or opportunity?

16. Upzoning could significantly increase development capacity in the short to medium-term and accelerate housing supply. This would complement work on other supply barriers such as infrastructure and large scale project support.

17. Central government has an opportunity to take more of a leadership role. Currently balancing views on intensification in an established community can be challenging for councils, and can result in status quo bias and less optimal housing and urban development outcomes.

18. There are two ways to increase development capacity:

    a. Speeding up implementation of the NPS-UD (as land will be upzoned as part of this process)

    b. Adding capacity that may not have been added under the NPS-UD.

19. Officials and Ministers were particularly interested in changes that could be made to the RMA to increase development capacity as this could enable changes to be made quickly.

What objectives are sought in relation to the policy problem?

20. This paper forms part of the Government's housing policy measures and builds on reforms already underway. Cabinet's policy objectives for housing market reforms are to:

    a. Ensure every New Zealander has a safe, warm, dry, and affordable home to call their own – whether they are renters or owners.

    b. Support more sustainable house prices, including by dampening investor demand for existing housing stock, which would improve affordability for first-home buyers.

    c. Create a housing and urban land market that credibly responds to population growth and changing housing preferences, that is competitive and affordable for renters and homeowners, and is well-planned and well-regulated.

21. Increasing development capacity, especially with an ample supply of alternative development opportunities, contributes to each of these objectives. Sufficient development capacity is a necessary factor for a functional, competitive market which is in turn necessary for more sustainable house prices.

Section 2: Deciding upon an option to address the policy problem

What criteria will be used to compare options to the status quo?

22. These proposals have been assessed against a set of criteria to evaluate the impact of the proposals:

    a. The magnitude of development capacity unlocked, and the likelihood that there will be a supply response as a result.

b. Wider urban outcomes, including the minimisation of negative impacts, such as traffic congestion and infrastructure costs, and the increase in a city's productivity due to denser markets (agglomeration effects).

c. The speed of the process, particularly when additional development capacity becomes available.

d. Ease of implementation, including the minimisation of costs for central and local government and in the risk of poor decision-making.

What scope will options be considered within?

23. An early scoping exercise considered a wide range of options to upzone land for housing. This longlist was developed from previous initiatives in New Zealand and elsewhere, including emergency legislation, and options to bring forward the NPS-UD.

24. The following options were ruled out as part of this process:

    a. Enabling hyper-localism.

    b. Improving strategic planning for the Auckland Southern Rail Corridor,

    c. Extending the sunset clause of the COVID-19 Recovery (Fast-track Consenting) Act 2020.

    d. Amending the NPS-UD to bring forward the notification deadline for plans incorporating changes required by the intensification policies.

    e. Passing emergency legislation to enable centrally directed intensification.

25. Options were ruled out for the following reasons:

    a. They would not be implemented through changes to the RMA.

    b. They would be too slow or too limited in their impact on development capacity.

    c. They would involve a significant shift in discretionary decision-making from local to central government.

    d. The administrative burden would be too high.

26. Support from central government in the form of the development of model zones was also considered. This was not rejected, but was assessed to be unlikely to increase development capacity on its own.

What options are being considered?

27. Two options, each to be implemented via amendments to the RMA, are assessed against the counterfactual (Option 1):

    Option 2: Establishing a new process to bring forward the implementation of the NPS-UD.

    Option 3: Applying a medium density residential zone (MDRZ) as a default minimum in residential areas in Tier 1 cities (Auckland, Hamilton, Tauranga, Wellington and Christchurch).

28. These options use different mechanisms and would have different effects. They could be jointly used to meet the objectives.

29. Four sub-options are assessed for option 3. These are outlined further below.

Option One – Counterfactual

30. The primary mechanism currently in place to address the problem is the NPS-UD. The NPS-UD came into force in August 2020. It requires, among other things, that councils amend their RMA plans to enable intensification in the places where people want to live.

31. The intensification policies are designed to enable more houses to be built in or close to urban centres, in places that are well-served by public transport, and in other areas with high demand for housing and business space.

32. Requirements in the NPS-UD differ based on city size. Councils in Tier 1 areas must enable building heights and density to realise as much development capacity as possible in the city centre. They must also enable development of at least six storeys in metropolitan centres and within walkable distance of rapid transport stops, and the edge of the city and metropolitan centres. In these locations, six storeys are the minimum for what must be enabled in plans. In other locations, if assessments show both high demand and accessibility, Tier 1 councils should enable heights and densities that reflect this.

33. As noted above, under current timeframes these policies will not be fully implemented until at least August 2024, using the standard Schedule 1 process in the RMA. This will delay the impact of these policies and the housing supply they will enable.

Option Two – Establishing a new planning process to bring forward the NPS-UD

34. This option would require Tier 1 councils to use a new, faster planning process, similar to the RMA's Streamlined Planning Process (SPP), for NPS-UD intensification plan changes.

35. Under the RMA, councils are currently required to complete either the standard Schedule 1 plan change process or apply to the Minister for the Environment to use a SPP before plan changes become operative.

36. The SPP was introduced in 2017, to provide greater flexibility in planning processes. 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. It allows the plan change process, including consultation and timeframes to be tailored to

specific issues and circumstances. The SPP can enable expedient plan changes and does not have any appeal rights for plan changes[6]. .

37. The new planning process would be based on the existing SPP, with some modifications. In the rest of this paper it is referred to as the Intensification Streamlined Planning Process (ISPP). The ISPP would:

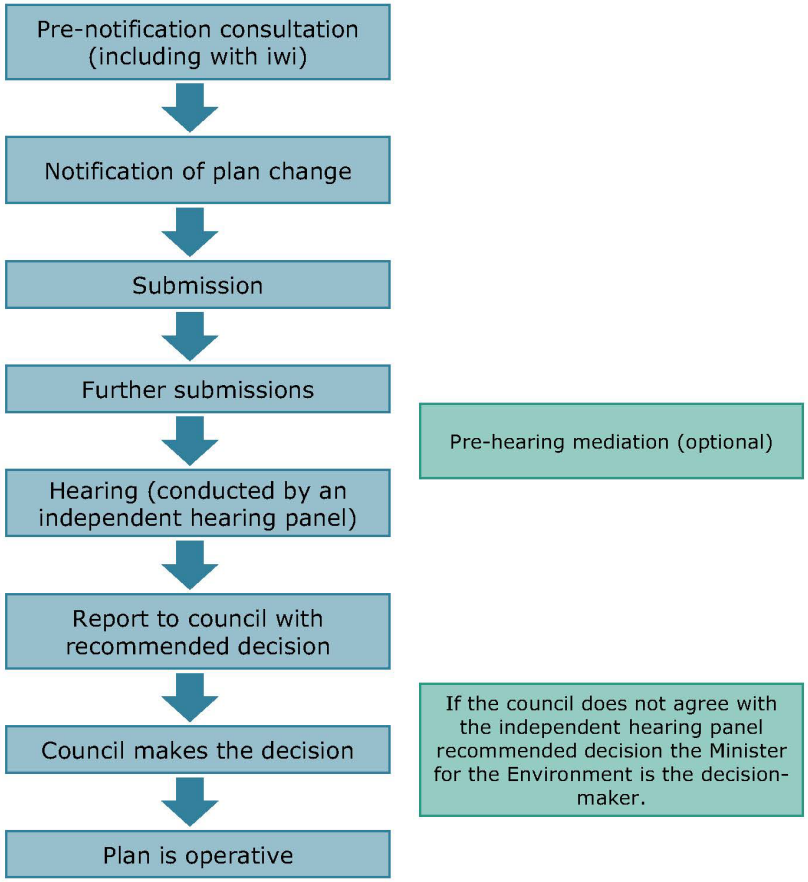
    a. remove the requirement for a council to seek approval from the Minister for the Environment to use the SPP

    b. include a set of standardised process steps

    c. the relevant council can be the final decision-maker with an ability for the Minister for the Environment to intervene if required.

38. The following diagram provides an overview of the proposed new planning process to implement the NPS-UD. It will involve several proportionate checks and balances and enable opportunities for public participation, including hearings.

Figure: Intensification Streamlined Planning Process (ISPP)



[6] The only appeal rights in a SPP are for decisions on designations; designations are not relevant to plan changes

39. An independent hearings panel will be appointed by the relevant council to carry out parts of the process. As is the case in the SPP, appeals will not be possible.

40. The independent hearings panel would make recommendations to the council on the plan change. If the council agrees to the recommendations, the plan change becomes operative. If the council does not agree the Minister for the Environment will make the final decision on the plan change.

41. The new planning process would provide an expedient process. Officials will work with councils to ascertain feasible timeframes during the drafting process, these will then be set in the legislation. If councils are unable to meet timeframes, they would be able to apply to the Minister for the Environment for an extension. This is consistent with the existing SPP.

Option Three – Applying a medium density residential zone (MDRZ) as a minimum

42. The option would involve amending the RMA to require cities to introduce a medium density residential zone (MDRZ) as a default minimum for residential areas. Sites in residential zones would have to allow at least three dwellings and three storeys except where there is a compelling reason to not intensify, such as heritage or natural hazards, apply.

43. The MDRZ would apply to all existing residential zones, unless zones in place are already more enabling, with some exemptions. It would also be applied to new residential zones, such as when rural land at the city fringe is urbanised. It would not apply to land zoned for recreation, open space, or business.

44. Areas could be exempted from the MDRZ if they meet the qualifying matters in the NPS-UD. These include:

    a. a matter necessary to implement or ensure consistency with iwi participation legislation including Treaty of Waitangi settlement legislation

    b. a matter of national importance that decision-makers are required to recognise and provide for under section 6 of the RMA

    c. a matter required to give effect to a National Policy Statement under the RMA, except the National Policy Statement on Urban Development 2020

    d. any matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure

    e. a site subject to a designation or heritage order or land designation.

Option 3 Sub-options

45. Five sub-options for applying the default MDRZ are assessed:

    Sub-option 3A: Directly incorporating the Auckland Unitary Plan – Mixed Housing Urban zone – with a bespoke panel-led process

    Sub-option 3B: Statutory criteria – with a bespoke panel-led process

    Sub-option 3C: Using the new ISPP to apply the MDRZ

    Sub-option 3D: Using the new ISPP, and providing for the MDRZ rules to have legal effect in district plans upon notification.

46. The following table summarises the different sub-options.

Table x:Summary of Option 3 Sub-options				
Sub-option:	A	B	C	D
Nature of direction	Direction incorporation of the AUP MHU zone	Statutory criteria	Statutory criteria	Statutory criteria
Process	Bespoke process	Bespoke process	The new ISPP (option 2)	The new ISPP (option 2)
Additional measures to speed up delivery	None	None	None	MDRZ rules have legal effect upon notification of plan changes

47. The sub-options are outlined in more detail below.

Sub-option 3A: Incorporating the Auckland Unitary Plan Mixed Housing Urban (AUP MHU) Zone into council plans

48. It was proposed that the Auckland Unitary Plan – Mixed Housing Urban (AUP MHU) Zone could be used as the MDRZ for other cities. This zone is a medium density residential zone permitting buildings up to three storeys and multiple dwellings per site. The zone would be incorporated directly into council plans, replacing relevant residential zone chapters.

49. A bespoke process would be applied to implement the zone. An independent panel would work with councils to implement the zone. A convenor, appointed by the Minister for the Environment, would determine the nature and membership of the panels and the rules and procedures for public hearings. This is similar to the approach for the COVID-19 Recovery (Fast-track Consenting) Act 2020. There would be no opportunity to appeal the new MDRZ, except on points of law.

50. The independent panel would hear and consider public submissions and evidence from the relevant councils to determine whether the medium density residential zone has been applied correctly, including the specified exemptions. The independent panel will consider whether the proposed change to each RMA council plan is sufficiently enabling to achieve the intended medium density outcome.

51. The panel would make recommendations to the councils to modify the new zone chapter and maps in their plan. The panel and council should then work together to integrate the changes to plans. The panel will decide whether the new zone chapter and maps achieve the purpose of the medium density residential zone as set out in the legislation.

52. Specific timeframes would have to be confirmed through consultation but this process may be able to be completed by mid-2022.

53. The following timetable outlines how this process is expected to work:

Table x: Bespoke process for Application of MDRZ (Option 3A and Option 3B)	
Stage	Description
Stage 1	Councils: • integrate the medium density residential zone requirements into their district plan by preparing a new zone chapter and maps • prepare a short report (limited) evaluation providing evidence and rationale for decisions (including exemptions) • consult with iwi authorities as they prepare the new zone chapter and maps
Stage 2	Councils • publicly notify new zone chapter and maps • receive submissions • prepare summary of the themes of submissions received
Stage 3	Independent panel: • hears oral submissions • is provided with evidence (including full submissions, summary of submissions, council evaluation report)
Stage 4	Independent panel: • makes recommendations to councils on the proposed zone
Stage 5	Councils: • incorporate independent panel's recommendations • may work with the independent panel to ensure good outcomes Independent panel: • approves new zone chapter and maps, which then becomes operative

Sub-option 3B: statutory direction based on a model zone

54. This option would use the process outlined above but would incorporate a modified approach to direction. It would give councils some discretion regarding how they incorporate a MRDZ into their district plans. It would involve:

    a. Central government designing the core components of the minimum density residential zone and specifying the statutory minimum requirements in the RMA

    b. Councils having some discretion, and a short and specified process, to prepare a zone meeting the requirements.

55. The statutory criteria would require the implementation of a MDRZ that:

a. allows three-storeys and three-units as of right per site[7]; and

b. enables:

- more flexible heights in relation to boundary standards to enable three storeys on average sized sites
- smaller private outlook spaces (i.e. space between windows and other buildings) and private outdoor spaces (e.g. balconies)
- development closer to side boundaries[8]
- more planning consents (when they are needed) to proceed on a non-notified basis without neighbour approvals.

56. This option would keep the core features of the AUP MHU zone but enable councils to keep the current format and design of their plans.

Sub-option 3C: Using the new planning process to apply the MDRZ

57. This option relies on Option 2 being implemented. It would utilise statutory criteria as per option 3B but forgo the bespoke process. Instead, amendments to the RMA would specify that councils must implement the MDRZ when they undertake their plan changes implementing the NPS-UD intensification policies. Both forms of intensification would be implemented through a single process, having a single set of submissions and hearings.

58. Under this sub-option, the MDRZ would have legal effect once the new process was completed and plans have become fully operational.

Sub-option 3D: Using the new ISPP to apply the MDRZ, and providing for the legal effect of MDRZ rules at notification

59. This sub-option would also require councils to implement the MDRZ through the new ISPP.

60. It would supplement these requirements by ensuring that key rules of the MDRZ have immediate legal effect and full weighting in decision-making as soon as plan changes are notified. A change to the RMA would facilitate this by making rules of the MDRZ have immediate legal effect. It would also specify what rules in operative plans would be replaced by the notified rules in the legislation for the MDRZ and make the previous restrictive rules inoperative.

61. This would include provision for three-storeys and three units as of right alongside more permissive height in relation to boundary and site coverage standards.

62. This option is feasible because councils have much more limited discretion when implementing the MDRZ than the NPS-UD intensification policies.

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[7] Currently many councils specify that only a single dwelling may be built on a site.

[8] Many inner-city sites are 10 metres wide which means a 1 metre side boundary on both side boundaries would eliminate 20 per cent of the site width that can be developed.

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

Overview of options analysis

63. In this section Option 2 and Option 3 are assessed against the criteria in paragraph 22 above.

Overview of evidence

64. There is more direct evidence of the costs and benefits for Option 2 (speeding up implementation of the NPS-UD through the ISPP) than for Option 3 (implementing a MDRZ). This is because analysis of Option 2 can draw on assessment of the intensification policies in the cost-benefit analysis (CBA) for the NPS-UD. That said, the benefits and costs of the NPS-UD intensification policies, and how they occur, will be broadly similar for the MDRZ, albeit of different incremental magnitudes.

65. In the short timeframe available to assess the MDRZ, formal economic analysis has not been undertaken for this RIS. Instead, a range of recent evidence has been drawn on to assess impacts. This includes:

    a. literature connecting land use restrictions to house price growth. As noted, a New Zealand-focused summary is outlined in Nunns (2019)[9] and in Superu and Sense Partners (2017)

    b. wider literature on urban development, including the identification of the types of impacts that arise. This is best illustrated in a MRCagney 2019 report on the wider costs and benefits of urban development[10]

    c. methodology reports produced by PwC[11] which aim to apply the MRCagney findings, and identify areas of 'quality development capacity' where development is more likely to occur over the medium term.

66. One gap is the lack of consultation. This particularly limits the ability to assess the ease of implementation. As outlined further below, some further work is expected to fill this gap.

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[9] An overview of this literature is outlined in Nunns (2019) https://cdn.auckland.ac.nz/assets/business/about/our-research/research-institutes-and-centres/CARE/the-causes-and-economic-consequences-of-rising-regional-housing-prices-in-new-zealand.pdf

[10] MRCagney (2019). *The costs and benefits of urban development*

[11] PwC (2020). *A methodology for strategic assessment of the wider costs and benefits of urban growth – Pilot Study*

PwC (2020). *A methodology for strategic assessment of the wider costs and benefits of urban growth - Methodology Report*

Summary of options analysis

			Option 3 - Medium Density Residential Zone (MDRZ)			
	Option 1 – *Counterfactual, NPS-UD intensification policies implemented circa 2024*	**Option 2 – *Bringing forward the NPS-UD using an ISPP***	**Option 3A – *Applying the AUP MHU zone – with a bespoke panel-led process***	**Option 3B – *MDRZ based on statutory criteria***	**Option 3C – Using the new ISPP to apply the MDRZ**	**Option 3D – Using the new ISPP to apply the MDRZ, but having legal effect at notification**
Magnitude	0	0	+	++	++	++
Urban impacts	0	0	+/-	+/-	+/-	+/-
Speed	0	++	+	+	0	++
Ease of implementation	0	+	- -	-	++	+
Overall assessment	0	++	-	+	+	++

Key:			
++	much better than doing nothing/the status quo/counterfactual	0	about the same as doing nothing/the status quo/counterfactual
+	better than doing nothing/the status quo/counterfactual	-	worse than doing nothing/the status quo/counterfactual
+/-	a mixture of positive and negative effects	- -	much worse than doing nothing/the status quo/counterfactual
		□	

Option 2 – Establishing a new ISPP process to bring forward the NPS-UD

67. The CBA undertaken on the intensification policies in the NPS-UD showed a range of benefits that could be expected to considerably outweigh costs.

68. In line with the wider urban development literature, the major benefits found were lower housing costs for renters and new homebuyers and agglomeration benefits. Agglomeration benefits result from a larger labour and consumer pool and benefit households and firms in the form of greater productivity and more diversity in labour, service and product markets. These benefits manifest in the area that is intensified and more widely, including at the city and national levels.

69. The CBA also identified the potential for negative externalities in the form of increased traffic congestion, infrastructure costs (where these are not covered by households or developers), loss of sunlight, and air and water degradation.

70. The report found that implementation of the intensification policies would achieve benefits that outweigh costs by between a multiple of two and seven, depending on the specific city. It also finds that externalities driven by intensification would be much lower than for greenfields development.

Magnitude

71. This option would not increase development capacity relative to the counterfactual – instead it would increase the speed in which it was unlocked.

72. The NPS-UD CBA predicted a strong supply response that would result in economic benefits to the public of more affordable housing in the order of a few millions to hundreds of millions of dollars. It found that a positive supply response was likely in all Tier 1 cities, particularly Auckland and Tauranga.

Urban Impacts

73. We expect that the main impact of this initiative will be to enable benefits outlined above – and the associated costs – to be realised earlier. The magnitude of these impacts is not expected to change.

Speed

74. Timing is not certain for the new process, but a conservative estimate would suggest the ISPP could be completed by mid-2023. This would provide sufficient time for submissions, hearings, and panel deliberation.

75. This would enable new development capacity **two to three** years earlier than the counterfactual.

Ease of implementation

76. The requirement to use the new planning process for the NPS-UD intensification plan changes is unlikely to require additional resourcing from council. The timeframe for developing proposed plan changes – the most resource intensive phase for councils – will not be changed. In the later phases of the process, the initiative will reduce work for councils, as the process for implementing the NPS-UD will be shorter and councils will not have to respond to appeals.

77. The cost of the new planning process to implement the NPS-UD will need to be met by councils. Councils would have had to pay for plan changes to meet the NPS-UD. While the new planning process does require that councils appoint an independent hearings panel, which will have associated costs, the overall cost of the new planning process will be less than if councils followed a standard RMA Schedule 1 process, as the cost of appeals can be significant.

Option 2 – Establishing a new intensification streamlined planning process (ISPP) to bring forward the NPS-UD: Summary of impacts

Affected groups	Comment	Impact.	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Existing residents	The costs identified in the NPS-UD CBA but 2-3 years earlier Includes impacts on transport congestions and amenity	Medium	High
Tier 1 councils	Costs of administering will largely the same in the medium term	-	Medium
Ratepayers and taxpayers (depending on funding source for infrastructure type)	Expected infrastructures costs may arise earlier than expected	Low	Low
Additional benefits of the preferred option compared to taking no action			
Future residents / future homeowners	The CBA found that the NPS-UD would lower the cost of housing for renters and new homebuyers. These benefits would arise earlier under this option	High	Medium
Whole of population	Agglomeration impacts identified by the NPS-UD CBA would arise 1-3 years earlier	Medium	Medium
Local government	Significant planning workload reduction once SPP has been completed (after mid-2023)	Medium	High

Option 3 – Applying a medium density residential zone (MDRZ) as a minimum

78. This section assesses the MDRZ against the four criteria – **magnitude**, **wider urban impacts**, **speed**, and **ease of implementation**.

79. In doing so, it incorporates assessment of the sub-options. This assessment differs between criteria:

    a. The difference on the **magnitude** and **wider urban impacts** criteria of the between sub-options would be relatively limited. Assessment against these criteria is predominantly at the option level.

    b. **Speed** and the **ease of implementation** would be significantly impacted by sub-option choice. Assessment therefore focuses on the differences between these options.

Magnitude of development capacity unlocked

80. The introduction of a MDRZ would greatly increase zoned development capacity. The magnitude would be the same for each of the sub-options, with one exception (3A, outlined further below).

81. Most residential zones in New Zealand cities currently enable less development than a medium density residential zone would enable. Geoff Cooper, Chief Economist at PwC, has found that in Auckland, around 36 per cent of all residential land within 5km of the city centre is zoned single dwelling. In Tauranga, it is 91 per cent[12].

82. The volume of additional zoned capacity that arises will depend on the extent to which the MDRZ statutory exemptions are used, such as matters of national importance, nationally significant infrastructure and heritage orders. It is difficult to predict how widely these would be applied, but they are a much more limited basis for restricting development than is currently enabled under the RMA.

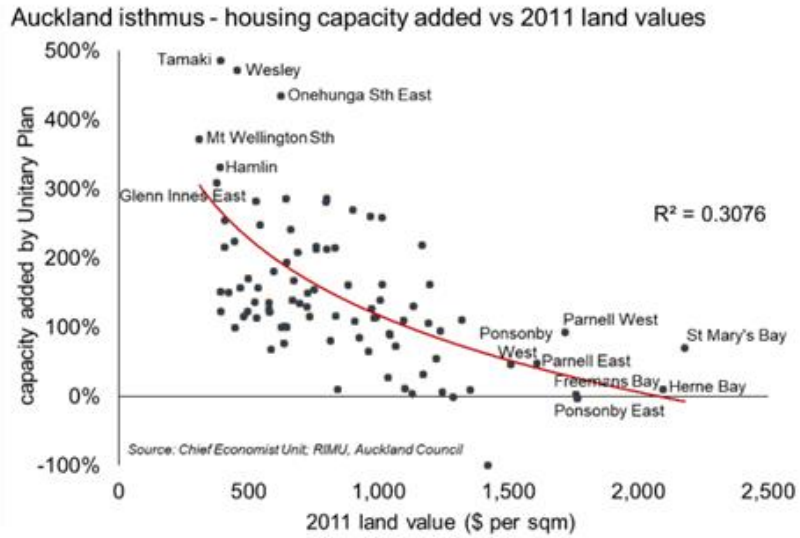
83. There is less certainty regarding the likelihood of the additional housing supply response – that is, it is unclear how quickly and densely developers would build in the rezoned areas. In addition to the statutory exemptions, development could be held back by a lack of infrastructure and other supply chain constraints, such as materials and labour, and difficulty identifying relevant parcels of land.

84. There are, however, two significant reasons to expect a reasonable housing supply response.

85. The first of these is that despite being in very high demand inner city suburbs have experienced a low level of development to date. Recent evidence in this area is strongest for Auckland. Work by the Auckland Council Chief Economist Unit has shown that inner-city suburbs like Hern Bay, St Mary's Bay, Grey Lynn, Mount Eden, and Remuera have not had an increase in housing density compared to suburbs with lower land value. This indicates the AUP's single house zone and other low-density

[12] Geoff Cooper, (2019). *Embrace housing density, it will breathe life into New Zealand's cities* https://www.stuff.co.nz/business/opinion-analysis/116074281/embrace-housing-density-it-will-breathe-life-into-new-zealands-cities

zones in these high demand areas are constraining housing supply, choice, and affordability. This is illustrated in the following graph[13]:

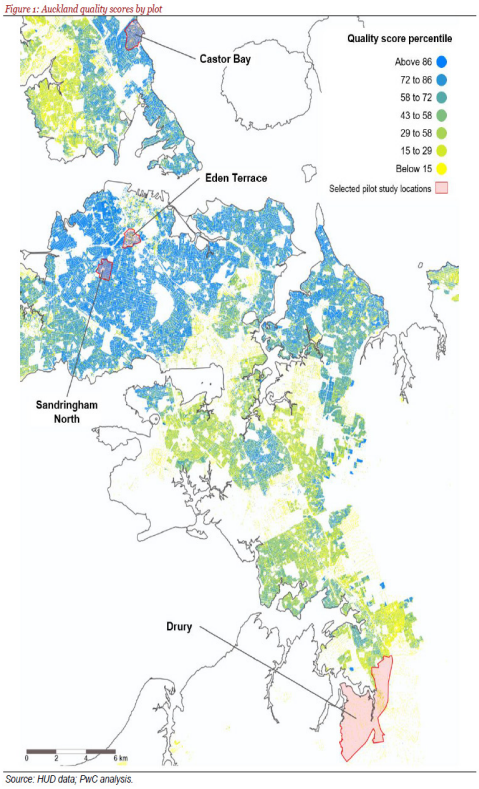


86. Further work by PwC has shown that this is not because these areas are already high density – rather, the capital intensity of investment in these areas is low compared to land values[14]. The following diagram illustrates this – the blue areas highlight sites that have low capital intensity of investment and high land prices. This means these residential areas have 'quality development capacity' where intensive housing is commercially feasible, and thus where housing supply is most likely to occur over the medium term.

[13] The challenge of developing in desirable locations (2018) https://www.aucklandcouncil.govt.nz/about-auckland-council/business-in-auckland/docsoccasionalpapers/the-challenge-of-developing-in-desirable-locations-november-2018.pdf Chief Economist Unit

[14] PwC (2020). *A methodology for strategic assessment of the wider costs and benefits of urban growth – Pilot Study*

Figure 1: Auckland quality scores by plot



Source: HUD data; PwC analysis.

87. PwC found a similar effect in Hamilton. This analysis suggests that once these areas are rezoned, lower quality or single dwellings are likely to be converted into multi-unit dwellings at a reasonably rapid pace, assuming there are no other housing supply chain constraints, such as infrastructure.

88. Although this type of analysis has not yet been undertaken for other New Zealand cities, it is likely a similar situation exists. Low density zoning is very widespread in the suburbs closest to the city centre in Wellington and Tauranga, for example.

89. The second reason a strong supply response is likely is that the building type it enables is comparatively easy to build. Three storey walk-ups are very similar in typology to buildings produced by most of the industry. This means that supply in response to this policy is less likely to run into industry capacity constraints than for other forms of intensification, such as apartments in city centres. This also means that this initiative will complement rather than substitute for much of the capacity enabled under the NPS-UD, which in many places will be greater than six storeys and requires a more specialised industry to develop.

90. Regarding sub-options, each sub-option would have similar impacts on magnitude, with the partial exception of Option 3A. Direct incorporation of the AUP MHU zone would have a more limited impact on development capacity and therefore housing supply. Although the zone has standards allowing three houses to be built up to three storeys high, other standards within the zone (such as height in relation to

boundary[15]) mean in most cases three storeys cannot be built. Other district plans have more enabling standards. For example, there are very few side and rear yard setback requirements in district plans in the Wellington region. As a result, overall development capacity could be reduced if the AUP MHU zone is directly incorporated.

Wider urban impacts

91. In addition to increased housing supply (captured in the first criterion), the urban growth literature has identified a range of effects resulting from intensification and other types of urban growth. These particularly include:

    a. Agglomeration effects, resulting from a larger labour and consumer pool, benefit households and firms in the form of greater productivity and more diversity in labour, service and product markets. These benefits manifest in the area that is intensified and more widely, including at the city and national levels. Nunns (2019) showed that comprehensively removing constraints to housing supply could increase New Zealand's total economic output by up to 7.7 per cent.

    b. Negative externalities such as transport congestion, infrastructure costs and impacts on the natural environment. These can be localised in the rezoned area (as is the case for sunlight loss) or are somewhat dispersed across the urban population (such as transport congestion).

92. These tend to arise commensurately. In the case of the MDRZ, both costs and benefits will arise jointly if we see a supply response. The relative degree of these impacts can be altered by the type of and location of any intensification. For example, traffic congestion could increase if there is a significant supply response far from arterial routes or in areas that are poorly serviced by public transport.

93. In this regard, the work by PwC found development in the areas outlined above – inner city suburbs where we know there is likely to be a strong supply response – would also generate higher agglomeration benefits and comparatively low negative externalities. Transport congestion, other infrastructure costs and impacts on the natural environment would be low compared to other development opportunities.

94. This means that via the implementation of the MDRZ we are likely to see development in areas with high benefits and relatively low costs. Given the typically high estimated values of agglomeration and housing availability, this suggest that it is likely the benefits of this policy will outweigh the costs.

95. All sub-options are likely to have similar impact on wider urban outcomes to the extent that they enable development to occur.

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[15] Height in relation to boundary creates an invisible envelope buildings must be contained in. It is measured vertically from ground level at the boundary (height varies between zones). From that point you must measure inwards at an incline of 45 degrees (this is termed the recession plane) to create the envelope.

Speed

96. This is intended be a fast process that makes new development capacity available in a short period of time. The following table outlines when the application of the MDRZ would have effect, making additional development capacity available.

*Table: Assessment of Option 3 sub-options against **speed** criterion*

	3A: AUP/ MHU Zone (bespoke process)	3B: Statutory criteria (bespoke process)	3C: Statutory criteria, new ISPP	3D: Statutory criteria, new ISPP, immediate legal effect for MDRZ
Date additional development capacity available	Approx. June 2022*	Approx. June 2022*	End of new process – likely mid-2023.	At notification of plan changes – August 2022
This timeframe was developed as indicative and may not have been feasible in practice.				

97. Sub-options using the bespoke process – that is, 3A and 3B, would release additional development capacity sometime in mid-2022. This date is indicative as further work would be required to develop the timeframes for each component of the bespoke process.

98. As noted, timing is also uncertain for the new ISPP but is expected to be completed in mid-2023. Under sub-option 3C, this is when new capacity would be enabled in the form of the MDRZ.

99. Sub-option 3D is specifically designed to bring forward the date in which the capacity added by the MDRZ is enabled. It would mean plans implementing the MDRZ would have an impact *once notified* (August 2022), rather than following full submission, hearing, decision processes (a further year) which will be the case for the NPS-UD intensification. This will allow construction in line with the new zone to begin from that point.

Ease of implementation

100. Options differ considerably in their ease of implementation:

*Table: Assessment of Option 3 sub-options against **ease of implementation** criterion*

	3A: AUP/ MHU Zone (bespoke process)	3B: Statutory criteria (bespoke process)	3C: Statutory criteria, new ISPP	3D: Statutory criteria, new ISPP, immediate legal effect for MDRZ
Impacts on council	Very difficult to implement. Would cause inconsistency in council plans. Timeframes may not be feasible	Moderately difficult. Timeframes may not be feasible	Easiest option – will use an existing process and reduce council workload through limiting ambiguity and the ability for stakeholders to appeal	Moderately easy option. Similar work to prepare plans for councils as sub-option 3C. May cause some ambiguity for consent officers
Other stakeholders	Very short timeframe for engagement. Resulting plans may be difficult to understand	Very short timeframe for engagement	Unambiguous process for stakeholders.	Some ambiguity may arise from notified rules that have legal effect and can then be changed
Cost to central government	Would cover bespoke panel costs	Would cover bespoke panel costs	No additional costs	No additional costs

101. There are a number of difficulties with option 3A. The AUP MHU zone would result in compatibility issues when applied to district plans outside of Auckland. This would create inconsistencies between the AUP MHU zone chapter and the rest of the plan. This is likely to make the amended plan difficult to use for both councils and developers. For example, many other district plans include transport, noise and subdivision rules within their residential zones which are not provided for in the AUP MHU zone and would therefore create a vacuum relating to these matters.

102. For this reason, statutory criteria are favoured (used in sub-options 3B, 3C, and 3D). This would enable local context to be taken into account and allow for zone provisions to be adapted to existing plans

103. The bespoke process in sub-options 3A and 3B would have some associated costs and risks:

    a. It would require some resourcing to shift from the implementation of the NPS-UD to the new process.

    b. The new process could overlap with the NPS-UD process. Although it expected to be completed in time, this may not be feasible. Overlap would cause several issues including stretched capacity of independent hearing panellists and councils.

c. There is also added complexity arising from having split hearings and split decisions. Councils would need to resource two sets of hearings. There is the risk of decisions quickly being superseded by later decisions, adding duplication of effort and confusion particularly for developers and the public.

d. Central government would need to cover the costs of the panel as these will not have been budgeted for by councils. This is expected to be approximately $3m (once-off, not yearly). Costs include panel members' fees, administrative support and expert advice when it is needed.

104. In contrast, having a single process for both the MDRZ and the intensification policies in the NPS-UD would be less ambiguous and resource-intensive for councils. Considering both forms of intensification at the same time will reduce the workload required to determine plan changes and make it easier for MfE and HUD to support implementation.

105. Providing for the immediate effect of rules would be relatively easy to implement. It would not require additional work for councils as they prepare plans. It would require some guidance for consent officers, though this would be reasonably minimal compared to other similar changes to the RMA.

106. Some ambiguity may result for stakeholders from the two-step process – as rules will have legal effect, but are then finalised as part of the new ISPP. Changes flowing from submissions, hearings and panel input could reduce the degree of development enabled on a site – i.e. if an exemption is applied – or increase it. However, such change is unlikely to be widespread. Councils will have limited discretion to apply exemptions, and these will be largely based on existing information, available at the time the draft is initially drafted.

Summary of Options Assessment

107. A combination of Option 2 and sub-option 3D is preferred by officials. This package would enable an increase in the speed and magnitude in which development capacity is unlocked through a coherent process that moderates the work required by councils.

108. Under this option:

a. Development capacity enabled by the MDRZ would be unlocked in August 2022

b. Capacity required by the NPS-UD intensification policies would be realised approximately 12 months later.

What are the marginal costs and benefits of the option?

Option 3D: Statutory Direction to Introduce a Medium Density Residential Zone, Introduced in the new Intensification Streamlined Planning Process (ISPP)

Summary of impacts

Affected groups	Comment	Impact	Certainty
Additional costs of the preferred option compared to taking no action			
New residents in rezoned locations	Potential for reduced amenity for new dwelling owners vs. status quo (e.g. reduced sunlight, open space requirements), in comparison to the dwelling types which would have been available without rezoning	**Low** – given these residents will have access to a new dwelling of a higher quality than older housing stock, which should largely offset these losses	**Medium** – can compare but loss is not easily quantified
Ratepayers and taxpayers (depending on funding source for infrastructure type)	Additional pressure on infrastructure in existing urban areas (although it may reduce to some extent greenfields expansion which can be more expensive to service)	**Medium - High**	**Medium** – infrastructure servicing is expensive but there is limited evidence on the infrastructure pressures which would be triggered by rezoning and subsequent uptake of development opportunities
Existing residents in rezoned locations – neighbouring property	Potential for reduced amenity for neighbouring properties vs. status quo (e.g. overshadowing, privacy loss). There are also temporary costs from construction noise, dust, vehicles etc.	**Low – Medium** but dependant on requirements of MDRZ and extent to which development opportunities are taken up	**Medium** – development uptake can be modelled in but difficult to put monetary values on these costs.
Existing residents in rezoned locations – wider neighbourhood	Additional pressure on social infrastructure, e.g. school capacity, libraries, medical services. Transport – local effects, e.g. street parking, neighbourhood and regional effects e.g. public transport and private road congestion	**Low – Medium** Dependent on extent to which development opportunities are taken up, and marginal to avoided cost of providing new facilities in greenfield locations	**Low** – there is limited evidence on the impact of new residents on existing social infrastructure without extensive scenario modelling

Local government	Direct costs of changes to regulatory plans	Likely to be **Medium** but short term. Offset to by the reduction of future work required to plan for growth	**High**
Additional benefits of the preferred option compared to taking no action			
New residents in rezoned locations	Increases the number of households who can live in locations with access to a large number of high-quality jobs, schools, other social infrastructure, transport (such as train lines, e.g. City Rail Link in Auckland) – so the benefit of this existing public and private investment can be maximised. These households – who may otherwise have to locate elsewhere, may also experience travel time savings as a benefit if their travel is reduced.	**Very High** – this is likely to be a significant benefit to many households, depending on the extent to which the MDRZ development opportunities are taken up	**Medium**
New residents in rezoned locations *and* existing residents who may choose to move within their urban area	Increases variety of dwelling type versus the status quo, with more apartments and townhouses delivering improved choice for households who would prefer a smaller dwelling.	**Low – Medium** depending on the location, as in Auckland, for example, the majority of newly consented dwellings are now townhouses and apartments[16]	**Medium**
Whole of population	Agglomeration effects including as a result of benefits to firms where a larger supply of labour in the urban area from increased dwelling density.	**High**	**Medium –** an extensive literature exists on the agglomeration benefits that arise from density but it would depend on the supply response in the case of the MDRZ.
Households who purchase or rent new dwellings built in the MDRZ	Where additional supply leads to a net increase in supply (rather than displacing supply elsewhere), it will improve affordability and allow more households to become homeowners or rent at a more affordable level.	**High**	**Medium**– effects are multi-dimensional and very uncertain

[16] Auckland Council Chief Economist Unit (April 2021), Insights: The Gravity of Auckland's Density, p.2.

	We would expect an increase in net supply from a widespread MDRZ.		
Avoided soil loss	Increasing the amount of development capacity within existing urban areas through an MDRZ may reduce pressures at the urban fringe to rezone highly productive land for housing.	**Medium** – High depending on extent to which greenfield development is avoided versus the status quo	**Medium** – these (avoided) costs are well documented, but applying them to this option requires information about how much urban development will shift from greenfields to existing urban areas

Section 3: Delivering an option

How will the new arrangements be implemented?

Prior to legislation

109. These initiatives will be enacted through amendments to the RMA. A bill would be introduced, and a submission process would be open to the public.

110. Before being legislated, some aspects of these measures would be worked through with some iwi, Māori and councils to test their workability, particularly regarding timeframes.

The role of central government once enacted

111. Implementation of the NPS-UD via the new ISPP will build off the existing NPS-UD implementation programme, for which MfE and HUD are responsible.

112. MfE and HUD have established communication channels and relationships on the implementation of the NPS-UD which will be used and developed to advise on the new planning process. For the new planning process, MfE and HUD will jointly:

    a. Produce factsheets/guidance

    b. Monitor the uptake (including through the National Monitoring System (NMS), which tracks when councils undertake plan changes and the associated timeframes)

    c. Engage with councils on the process.

113. To ensure the MDRZ is implemented correctly, MfE and HUD will produce model zone provisions to demonstrate how plans could look based on the statutory criteria. This will support councils to quickly make the required changes.

Implementation Risks

Council capacity constraints

114. Councils are currently stretched by a number of central government reform programmes that impact zoning and land use regulations. These programmes, include RM reform, the NPS-UD, the National Policy Statement on Fresh Water, the Emission Reduction Plan, and the National Adaptation Plan. Unless carefully designed and supported by central government, the proposals contained in this paper risk running into council capacity constraints and being poorly implemented or diverting resource from other essential activity.

115. Although the lack of consultation has limited the ability to test design features with those who will implement these policies, we are confident that, in sum, these initiatives will reduce the work of councils to make room for growth. The new process to implement the NPS-UD (ISPP) will reduce the cost to councils of submissions, hearings and appeals. It keeps the current timeframe for developing draft plans (due August 2022) which is the most resource intensive stage. The additional requirement of the MDRZ reduces ambiguity for councils and makes it easier to enable medium density.

116. However, there remains a risk of poor implementation that does not meet objectives. Each process builds in quality controls, in the form of the independent panels and public submissions.

117. Central government will need to pay close attention to the progress made by councils in progressing plan changes and working with the independent panels. If the plans do not meet policy objectives, central government may wish to submit. The Minister for the Environment also has intervention powers if the panels and councils are unable to agree, or if councils are not adequately performing their role.

Infrastructure

118. To realise development, these measures will require significant council investment in infrastructure in some places. As noted, these measures will not address the infrastructure funding and financing constraints which councils face and could bring forward pressures on councils to address these constraints, either through reprioritising spending or investigating alternative funding and financing mechanisms.

119. Infrastructure costs arising from implementation of the NPS-UD should already be anticipated by councils, as these requirements have been signalled for some time now (that is, NPS-UD timing was intended to take the Local Government Act 2002 long-term plan process into account). Although some costs may arise sooner, the new process should not substantially change long term costs.

120. Impacts from the MDRZ are expected to be manageable in the short to medium term, as poorer housing stock, predominantly in inner city suburbs, is replaced gradually. These areas are as often well serviced by infrastructure and councils have the ability to signal when infrastructure capacity will be increased. Developers can be required to contribute to the costs of infrastructure upgrades required to enable the development. Central Government is aware of current difficulties in the financing of infrastructure and has work underway around the three waters infrastructure and the funding sources of local government. The Infrastructure Funding and Financing Act 2020 also provides for an alternative financing source for infrastructure.

121. The addition of the MDRZ may change the expected pattern of development under the NPS-UD. If patterns of development differ considerably from existing growth scenarios as a result of these initiatives, this could lead to unexpected large one-off costs, where new infrastructure investment is required. Central and local government will need to monitor the patterns of development that result from the MDRZ and implementation of the NPS-UD closely .

Covenants

122. Development covenants and cross leases can act as a barrier to intensification by restricting future land use and making delivery of affordable housing difficult or costly to comply. These agreements can limit housing height, subdivision, density, rentability and choice of building materials, and lock in low density housing, often for perpetuity. They can be relatively easy to establish and can be difficult to revoke without agreement of all interested parties.

123. As demand for housing changes, and our cities grow up and out, it is plausible well-resourced property owners, resident associations and developers may use covenants to limit housing intensification. This could limit the expected benefits of enabling intensification.

124. Evidence is currently limited on the extent to which covenants are a barrier and the likelihood of covenant use accelerating due to the MDRZ. The Government plans on undertaking work in this area to get a clearer estimation of the scale of the problem and the need for any further intervention.

How will the new arrangements be monitored, evaluated, and reviewed?

125. MfE and HUD will monitor the effectiveness of the NPS-UD, and report on this to the Minister for the Environment and Minister of Housing regularly. The effectiveness of the MDRZ policy will be contained in this reporting.

126. MfE and HUD will gather data on the implementation of the MDRZ alongside the NPS-UD, including:

    a. Decisions relating to urban development to meet the MDRZ and NPS-UD requirements, focussing attention on significant decisions such as the independent hearing panel decision, plan changes, and decisions that could affect development capacity at scale in Tier 1 urban environment.

    b. Territorial authorities' completion, timeliness and quality of plan proposals to meet the MDRZ requirements

    c. Required reporting, including evaluation reports to justify the use of exemptions to the MDRZ

    d. Whether or not councils and independent panels agree with the recommendations and subsequent decisions, and the extent to which the Minister for the Environment must intervene.

    e. Whether perceived or actual infrastructure constraints by councils and developers, result in conservative amounts of housing intensification, especially in high demand areas (for example, two rather than three or four storeys).

127. Some of the data collection will be facilitated by MfE's National Monitoring System, which collects data from all local authorities on their RMA processes, including any plan changes to implement national direction such as the NPS-UD.

128. Other information will be gathered through direct interactions with territorial authorities, particularly via the urban growth partnerships. Ongoing relationships will be a particularly valuable source of data as well as a means to resolve compliance issues. In addition, there will be direct reporting back from the independent hearing

panel via publicly accessible reports. The panels will make recommendations back to councils seeking changes to the notified proposals. The panel will subsequently review the changes and approve them if the panel believes the council made the necessary amendments to their plans.

If monitoring reveals issues, enforcement actions are available

129. Councils may fail to produce the required work in the specified timeframes, or not undertake it as directed by the independent panel. If this occurs the Minister may step in and make a final decision.

130. In addition, there are general options under options under the RMA available to the Minister for the Environment to:

    a. investigate the performance of local authorities in giving effect to the MDRZ

    b. provide recommendations to local authorities on improving their performance

    c. direct plan changes

    d. as a last resort, apply residual powers to appoint someone to carry out the local authority's functions and duties.