

Auckland Unitary Plan/Private plan change request

Practice and Guidance note

Incorporating Medium Density Residential Standards (MDRS) in private plan change requests

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1 Introduction

This practice and guidance note explains:

- the mandatory requirement for a private plan change request to incorporate MDRS;¹
- what material must be included in the private plan change request and how this may be done;
- very few private plan change requests can rely on Auckland Council's intensification planning instrument ((IPI) – Plan Change 78: Intensification) to incorporate MDRS.

This note is relevant to a private plan change request for a relevant residential zone lodged after 18 August 2022.²

We prepared this note for private plan change requestors and their professional advisors. We assume that readers are familiar with the Resource Management Act 1991 (RMA), the National Policy Statement on Urban Development 2020,³ and IPIs.

2 Private plan change request is to the Auckland Unitary Plan (AUP) Operative in Part 2016

A private plan change request can only be made to the Auckland Unitary Plan, not to council plan changes.

Although a private plan change request can be made to the AUP while the council is proposing changing the AUP via a plan change, a requestor runs the risk of the private plan change process being overtaken.

3 Mandatory requirement to incorporate MDRS

Any person can lodge a private plan change request to the Auckland Unitary Plan (excepting the Regional Policy Statement section). The council is required to make a decision under clause 25 of Schedule 1 of the RMA to accept, adopt or reject the

¹ which applies when a private plan change request triggers section 77G(1) RMA requirements.

² The council notified the IPI, Plan Change 78, on 18 August 2022.

³ Amended May 2022.

private plan change request, or to deal with the request as though it was an application for resource consent.

Clause 25(4A) of Schedule 1 of the RMA provides:

A specified territorial authority must not accept or adopt a request if it does not incorporate the MDRS as required by [section 77G\(1\)](#).

Section 77G(1) provides that every relevant residential zone⁴ of a specified territorial authority⁵ must have MDRS⁶ incorporated into that zone.

The RMA prevents the council from accepting (or adopting) a private plan change request if the request does not incorporate MDRS into every relevant residential zone, as required by [section 77G\(1\)](#) of the RMA.

The council has no discretion: [clause 25\(4A\) Schedule 1](#) specifies that a council **must not** accept or adopt the request if it does not incorporate the MDRS as required by s77G(1) of the RMA.

Guidance from the Ministry for the Environment acknowledges the requirement for MDRS to be incorporated:⁷

MDRS applies to future residential rezoning

Future plan changes that are not made through the IPI will also need to incorporate the MDRS. This includes private plan change requests. The standard plan change process applies as the IPI can only be used once.

4 Material to be incorporated in private plan change request

A private plan change request must incorporate all aspects of MDRS including:

- specified activities and their classifications;
- preclusion of certain notification requirements; and
- mandatory objectives, policies and density standards.

⁴ Relevant residential zone is defined in s2 of the RMA. Relevant residential zone—

(a) means all residential zones; but

(b) does not include—

(i) a large lot residential zone:

(ii) an area predominantly urban in character that the 2018 census recorded as having a resident population of less than 5,000, unless a local authority intends the area to become part of an urban environment:

(iii) an offshore island:

(iv) to avoid doubt, a settlement zone.

⁵ Auckland Council is a specified territorial authority.

⁶ MDRS means the requirements, conditions, and permissions set out in Schedule 3A of the RMA.

⁷ [MDRS: A guide for territorial authorities](#) 19 July 2022 Ref: INFO 1042.

A private plan change request may:

- propose qualifying matters in accordance with section 77I of the RMA; and
- propose modification of Schedule 3A requirements to enable greater development.

5 How MDRS may be incorporated

The AUP's Chapter I Precincts provides for alterations to zone-based provisions. MDRS are zone-based provisions, applying only to relevant residential zones. A private plan change request to the AUP lodged after 18 August 2022 proposing a relevant residential zone will need to incorporate MDRS as required by s77G(1) of the RMA. One option is for the private plan change request to include a precinct that proposes the incorporation of MDRS.

The council strongly encourages requestors to utilise the council's writing guide and precinct template in drafting private plan change requests. These resources are freely available on request from unitaryplan@aucklandcouncil.govt.nz

Nearly every private plan change request must incorporate MDRS via a precinct. [Very few requests can rely on the council's IPI, Plan Change 78, to incorporate MDRS.](#)

6 Relevant residential zones

A private plan change request proposing land receive a residential zone must incorporate MDRS if the proposed zone is a relevant residential zone. The RMA defines relevant residential zones in section 2.⁸ In Plan Change 78: Intensification to the AUP (the Council's IPI), the relevant residential zones are:

- Residential – Terrace Housing and Apartment Buildings Zone
- Residential – Mixed Housing Urban Zone
- Residential – Low Density Residential Zone⁹

Zones are not relevant residential zones where they do not meet the definition in section 2 of the RMA, including where they are applied to areas predominantly urban in character with a resident population of less than 5000 people as at 2018. The council proposes in its IPI that the Residential – Mixed Housing Suburban and

⁸ See footnote 4.

⁹ This is a new zone proposed in the IPI. A private plan change request to rezone land cannot apply this zone as it is not part of the AUP.

Residential – Single House Zones be retained only in small settlements where the zones will not be relevant residential zones. A private plan change request lodged prior to decisions on the IPI is more likely to be integrated with the AUP if the proposed zone is:

- Residential – Terrace Housing and Apartment Buildings Zone, or
- Residential – Mixed Housing Urban Zone.

7 Requests to apply zoning that is not a relevant residential zone

Requestors may propose urban non-residential zones, or residential zones that do not meet the RMA's definition of relevant residential zones. These private plan change requests are not required to incorporate MDRS (and any MDRS incorporation would not integrate well with the AUP).

For example, a request to extend an existing settlement¹⁰ by extending that settlement's Residential – Single House Zone, Residential – Rural and Coastal Settlement Zone or Residential – Large Lot Zone should not incorporate MDRS.

8 Few private plan change requests can rely on Auckland Council's intensification planning instrument to incorporate MDRS

Transitional provisions were included when the RMA was amended to make MDRS mandatory for relevant residential zones. Very few private plan change requests may rely on the council's IPI to incorporate MDRS. All requests must have been lodged before 18 August 2022 and must meet all requirements of clause 35, Schedule 12 of the RMA.

¹⁰ with a resident population of less than 5000 people as at 2018.

9 Conclusion

A private plan change request seeks to amend the AUP, not a council-initiated plan change.

Any private plan change request lodged after 18 August 2022 in relation to a relevant residential zone must incorporate MDRS as required by section 77G(1) of the RMA otherwise the council must not accept or adopt it.

Proposing a precinct is one means by which MDRS can be incorporated.