

To: His Worship the Mayor and Councillors
From: Principal Policy Advisor
Subject: **WAIPĀ SUBMISSION ON THE RESOURCE MANAGEMENT ENABLING HOUSING SUPPLY AND OTHER MATTERS AMENDMENT BILL**
Meeting Date: 14 December 2021

1 EXECUTIVE SUMMARY

The Resource Management Enabling Housing Supply and Other Matters Amendment Bill was publicly announced on 19 October 2021 without prior consultation. After an initial discussion with elected members at the Strategic Planning and Policy Committee meeting on 2 November 2021, it was agreed that the Council should make a submission on the Bill.

It was also noted that due to the limitations of the three week consultation period, the submission would need to be approved using the delegated authority of the Mayor.

A staff working group prepared and finalised a submission which was approved by Mayor Jim Mylchreest and lodged with the Parliamentary Environment Select Committee on 16 November 2021.

The following appendix accompanies this report:

- Submission from Waipā District Council on the Resource Management Enabling Housing Supply and Other Matters Amendment Bill (document number 10718153).

2 RECOMMENDATION

That

- a) *The report titled 'Submission on Resource Management Enabling Housing Supply and Other Matters Amendment Bill' (document number 10723983) of David Totman Principal Policy Advisor be received;*
- b) *Council retrospectively approves the lodging of the submission to the Resource Management Enabling Housing Supply and Other Matters Amendment Bill in Appendix 1 of the Report, which was endorsed by the Mayor prior to submission.*

3 OPTIONS AND ASSESSMENT

Decision making

Due to the limited three week period allowed for consultation on the Bill, there was no opportunity to have a committee of the Council consider and approve the Waipā District Council submission on the Bill.

Using the Mayor's delegated authority therefore, provided the only practical option for enabling staff to lodge the submission on the Council's behalf in time to meet the submission deadline on 16 November 2021.

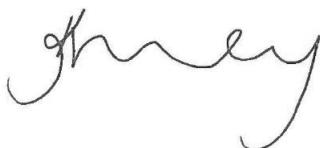
As there were many shared concerns by the Council's Waikato Future Proof partners (Waikato Tainui, Hamilton City Council, Waikato District Council, and Waikato Regional Council), Section A of the Waipā submission contained points that were compiled jointly and inserted in each partner's separate submission.

This collaboration between the Waikato Future Proof partners, enabled a shared presentation to be made to Parliament's Environment Select Committee on Monday 22 November 2021. Mayor Jim Mylchreest spoke to the Waipā District Council submission. We only had one question on our submission and that was regarding our submission's suggestion about using a National Environmental Standard to introduce the medium density housing requirement in place of amending the RMA.

Staff will monitor and report back to Elected Members on the progress of this Bill and the other unfolding reforms in Resource Management legislation.



David Totman
PRINCIPAL POLICY ADVISOR



Approved by Kirsty Downey
MANAGER STRATEGY

Appendix 1

Submission from Waipā District Council on the Resource Management Housing Supply and Other Matters Amendment Bill 2021 (document number 10718153)



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16 November 2021

Committee Secretariat
Environment Committee
Parliament Buildings
Wellington

Digitally Delivered

Email: en@parliament.govt.nz

Dear Madam/Sir

SUBMISSION ON THE RESOURCE MANAGEMENT (ENABLING HOUSING SUPPLY AND OTHER MATTERS) AMENDMENT BILL

Waipā District Council appreciates the opportunity to provide comments on the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill.

Our submission is presented in two parts.

Part A comprises submission points prepared jointly by the Future Proof Partnership's four Waikato Councils (Waikato District Council, Waipā District Council, Hamilton City Council and Waikato Regional Council) and Waikato-Tainui.

Part B contains points specific to the Waipā District Council.

Waipā District Council wishes to have the opportunity to speak to the Parliamentary Select Committee jointly with its three Waikato Future Proof partner councils (Waikato District Council, Hamilton City Council and Waikato Regional Council), to the joint submission points in Part A and separately with regard to the submission points in Part B of its submission.

You are welcome to make contact with Waipā District Council with regards to any of the specific comments made in our submission. In this regard and in the first instance David Totman can be contacted either via email at david.totman@Waipādc.govt.nz or telephone at 07 872 0048.

Yours sincerely

A handwritten signature in purple ink that reads "Jim Mylchreest".

Jim Mylchreest

Attachment: Waipā District Council Submission on the Resource Management (Housing Supply and Other Matters) Amendment Bill

SUBMISSION ON THE RESOURCE MANAGEMENT (HOUSING SUPPLY AND OTHER MATTERS) AMENDMENT BILL

By: Waipā District Council

INTRODUCTION

Waipā District Council (the Council) appreciates the opportunity to provide comment on the Resource Management (Housing Supply and Other Matters) Amendment Bill 2021.

PART A – JOINT SUBMISSION POINTS OF THE FUTURE PROOF PARTNERSHIP’S FOUR WAIKATO COUNCILS AND WAIKATO-TAINUI

Introduction

Part A is a joint submission to Parliament’s Environment Select Committee on the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill 2021 (**Bill**), on behalf of the Future Proof Waikato Councils (i.e. Waikato District Council, Hamilton City Council, Waipā District Council, Waikato Regional Council), and Waikato-Tainui (herein referred to as the Future Proof Partners for the purposes of this submission).

The Future Proof Partners are aligned in their strong opposition to the Bill.

The Bill seeks to introduce amendments to the Resource Management Act 1991 (**RMA**) which are in direct conflict with the RMA’s single purpose of ‘sustainable management’.

The Bill is in direct conflict with The Waikato-Tainui Raupatu (Waikato River) Settlement Act 2010 and Te Ture Whaimana o te awa o Waikato (The Vision and Strategy for the Waikato River).

The Bill is in direct conflict with the National Policy Statement on Urban Development 2020 in that it will fail to enable well-functioning urban environments and will create a fundamental disconnect between land use planning and infrastructure planning.

The Bill is in direct conflict with the strategic growth initiatives currently being implemented by Future Proof and by each of the local authority Future Proof Partners.

The Future Proof Partners oppose the passing of the Bill in its current form. They consider that the Bill is so fundamentally flawed that it should be withdrawn. If it is not withdrawn, substantial amendments to the Bill are required. These amendments are outlined in Part A and Part B of this Submission

Overall Comments

The Future Proof Strategy is a 30-year growth management and implementation plan specific to the Hamilton, Waipā and Waikato sub-region within the context of the broader Hamilton-Auckland Corridor and Hamilton-Waikato Metropolitan areas. The Strategy provides a framework to manage growth in a collaborative way for the benefit of the Future Proof sub-region, both from a community and a physical perspective. The Future Proof partnership is the first Crown-Iwi-Local Government Urban Growth Partnership. This submission does not reflect the views of other Future Proof partners, including central government and Auckland Council.

The Strategy has been successful in providing a strategic, integrated approach to long-term planning and growth management in the sub-region. The settlement pattern for the Future Proof sub-region takes a compact and concentrated approach.

Recently, the Future Proof Strategy has been updated to reflect the provisions in the National Policy Statement on Urban Development (NPS-UD), and consultation is currently taking place on the updated Strategy. Significant partner resources have been put into the Future Proof update by all partners, including Central Government. The Future Proof Partners are satisfied that the draft updated Future Proof Strategy

reflects the direction set in the NPS-UD to ensure sufficient development capacity and contribute towards well-functioning urban environments.

The Future Proof Partners acknowledge the bipartisan support for the Bill and commend the Government and Opposition for their commitment to trying to address the country's housing crisis.

However, while the outcomes sought by the Bill fit within the Government's work programme, the provisions are incongruous with well-functioning urban environments and cut across the four wellbeings approach of Government initiatives, notably the Government Policy Statement on Housing and Urban Development (GPS-HUD).

In summary, the Future Proof Partners are extremely concerned that the Bill is a "one size fits all" approach that will not work in practice.

Please note that in the event that the Government rejects our request to withdraw the Bill, we have outlined a number of amendments that will ensure:

- **Better alignment between the Bill and the RMA**
- **Ensure that the primacy of Te Ture Whaimana/The Vision and Strategy for the Waikato River is given effect to as required by Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.**
- **Provide greater safeguards and certainty for councils, iwi, developers and homeowners/residents in the country's main urban areas.**
- **Provide significantly better housing outcomes in these urban areas for all stakeholders.**

No Meaningful Engagement with Local Government or Iwi on the Bill

The Bill's intent is "To rapidly accelerate the supply of housing where the demand for housing is high. This will help to address some of the issues with housing choice and affordability that Aotearoa New Zealand currently faces in its largest cities".

The Future Proof Partners are supportive of this overall intent - the Bill (albeit in a highly revised form) could provide greater housing

opportunities, which in turn could be part of the solution to address more affordable housing in the country's main urban areas.

We recognise the critical housing issues being faced across the country and the need to look for solutions to address both affordability and supply. However, we have significant concerns with how the Bill was developed and communicated to local government and iwi.

This lack of consultation with local government and iwi has reduced our ability to meaningfully engage with our communities and further explain to them how these changes will impact on existing engagements already underway in planning for growth in the Future Proof areas. In essence, there has been no real opportunity provided by Government for any meaningful input.

In addition, the Future Proof Waikato councils have recently undertaken extensive Long Term Plan engagement for the likes of play, parks, and environmental strategies - implementation of the Bill in its current form has the potential to undermine this whole process and the projects that are already planned for.

Future Proof is a key partner of Government as part of the Hamilton-Auckland Urban Growth Partnership to deliver on the objectives of the Urban Growth Agenda. This relationship has been formalised through the Future Proof Partnership, and the development of the H2A Corridor Plan and Hamilton-Waikato Metro Spatial Plan. This is the first Crown-Iwi-Local Government Urban Growth Partnership in New Zealand.

Given this ongoing and successful partnership, the Future Proof Partners are very disappointed in how the Bill was developed in isolation from local government and iwi, noting that an explicit pillar of the Urban Growth Agenda is to build stronger partnerships with local government to address the fundamentals of land supply, development capacity and infrastructure provision.

The clear lack of engagement with local government, iwi, and residents of Tier 1 high growth councils to date is incredibly disappointing. The Bill, as proposed, is sudden, will have significant impacts on place-making, land-use and infrastructure planning work, as well as undermining many current committed strategic spatial planning partnerships with Central Government, such as the Hamilton to Auckland Corridor Plan, the Metropolitan Spatial Plan and the Future Proof Strategy.

The approach that has been taken to develop and communicate the Bill seriously compromises the spirit of the relationship that has been built up over several years. This is extremely disappointing.

Given the significant wider legislative reforms underway, it is critical that open and transparent dialogue is maintained between central and local government.

Specific Comments

Te Ture Whaimana o Te Awa o Waikato – the Vision and Strategy for the Waikato River

Te Ture Whaimana o Te Awa o Waikato/the Vision and Strategy for the Waikato River (Te Ture Whaimana) is the primary direction-setting document for the Waikato and Waipā Rivers and their catchments, which includes the Waikato River and the lower reaches of the Waipā River.

Te Ture Whaimana arose as a result of Raupatu in the 1860s and its consequences and the ensuing Waikato-Tainui River Claim. The Vision and Strategy is detailed within the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 which sets out the vision, objectives and strategy for the Waikato River. Subsequent Acts have extended Te Ture Whaimana so that it now covers the whole of the Waikato and Waipā river catchments.

Te Ture Whaimana requires that the health and wellbeing of the Waikato and Waipā Rivers is to be restored and protected for current and future generations. It adopts a precautionary approach towards decisions that may result in significant adverse effects on the awa. Section 12 of the River Settlement Act provides that Te Ture Whaimana prevails over RMA planning and policy instruments including National Policy Statements. Section 13 of the River Settlement Act requires that all regional and district plans must 'give effect' to Te Ture Whaimana.

A key aspect of Te Ture Whaimana is protection and restoration of the awa. Te Ture Whaimana represents the strongest direction that Parliament has given in relation to any RMA planning document and it is the pre-eminent planning instrument within the Waikato region. It is

particularly noted that in the event of any inconsistency or conflict, Te Ture Whaimana o Te Awa o Waikato prevails over any national policy statement or New Zealand Coastal Policy Statement.

The Kiingitanga Accord (2008)¹ is a deed between the Crown and Waikato-Tainui. Clause 3.4 of the Accord requires that:

- In the development and drafting of any new legislation, the Crown will consider whether, by analogy with the nature and subject matter of the statutes in which the Vision and Strategy has been given statutory recognition under the Waikato River Settlement, such new legislation should also include express legislative recognition of the Vision and Strategy in the same or substantially similar form to that provided under the settlement; and
- Where appropriate, any such new legislation when it is introduced into Parliament shall include express legislative recognition of the Vision and Strategy in the same or substantially similar form to that provided under the Waikato River Settlement.

Whilst there is reference to 'iwi settlement legislation' in the Bill, there is no direct reference to Te Ture Whaimana and no clarity as to how the new Bill would interact with Te Ture Whaimana. The Bill falls squarely within the scope of the commitments in the Kiingitanga Accord and must therefore reasonably include express provisions relating to Te Ture Whaimana.

The content of the Bill is irreconcilable with Te Ture Whaimana unless there is a very substantial Central Government investment in wastewater and stormwater infrastructure within the Waikato Region. Without this commitment from Central Government, the outcomes sought in the Bill are unachievable. The Future Proof Partners submit that the Bill as written is not in accordance with Te Ture Whaimana and does not give effect to the Kingitanga Accord.

The Bill does not address the conflict arising from the mandate for further housing intensification and the primacy of Te Ture Whaimana, which requires the restoration and protection of the health and wellbeing of the Waikato River. This objective, and others, call for an overall improvement in water quality. Increased densities of the kind enabled by the Bill will grossly exceed the capacity of existing wastewater and stormwater systems which discharge into the sensitive environment of the awa. These systems are already at capacity and cannot function in a manner which gives effect to Te Ture Whaimana without substantial ongoing investment. The Waikato Councils are attempting to plan

¹ <https://www.govt.nz/assets/Documents/OTS/Waikato-Tainui/Waikato-Tainui-Kiingitanga-Accord.pdf>

for this as best they can under their current fiscal constraints, however the Bill will introduce densities which make the capital expenditure costs impossible to manage at a local government level.

As a practical example, increased impervious areas will lead to increased flood events and poor quality stormwater entering the river. With the immediate introduction of the Bill, the Future Proof Waikato Councils would not have time to upgrade existing wastewater and stormwater systems before the Medium Density Residential Standards (MDRS) provisions would be required to be notified. This would potentially result in serious effects on the awa, completely at odds with Te Ture Whaimana. It is certainly not in keeping with the precautionary approach promulgated by Te Ture Whaimana.

The Bill could also allow physical construction of buildings adjacent to the Waikato River with potential environmental and cultural effects.

The Future Proof Partners are undertaking a Waikato sub-regional three waters study, which will determine an approach to three waters that is “best for river”. This study will provide the approach and evidential basis for three-waters decision-making in the Future Proof sub-region and will be a key input into the Future Development Strategy (FDS) required under the NPS-UD. The Bill would bring forward the timeframe and require this work to be done within the next six months in order to inform the plan changes required by August 2022. This is not feasible.

The current Bill would skip over the requirement to develop a land use pattern that gives effect to Te Ture Whaimana, and the requirement for strategic spatial planning (which will also be required under the new RMA reforms). By doing so, the Bill would set up development rights that would be hard/impossible to unpick in the future if evidence shows that the pattern of urban development is not able to meet the requirements of Te Ture Whaimana. In the Waikato context, the allocable flow of the Waikato River must address Te Ture Whaimana. For example, in Hamilton, the population is expected to reach 428,000 by 2065, and this means a water demand of 184 million litres per day (MLD) for Hamilton and 217 MLD for the wider metro area by 2065². Water is a finite resource and there is no guarantee that water take consents will be renewed at current levels in the future.

² https://www.epa.govt.nz/assets/FileAPI/proposal/NSP000046/Evidence-Submitters-evidence/Watercare_Sub_evidence_HCC_WDC_IMayhew.pdf

Whilst Te Ture Whaimana would prevail over an inconsistent NPS, it is unclear what the status of Te Ture Whaimana is in terms of the Bill once enacted. .

It is critical to the Future Proof Partners that Te Ture Whaimana is expressly recognised in the Bill as a “Qualifying Matter” which will enable areas within the Waikato to be exempt from the MDRS planning standards.

Summary of our submission points:

- Further time is needed in order to establish the evidential requirements necessary to ensure Te Ture Whaimana is given effect to whilst developing the intensification planning instrument/MDRS plan change for Future Proof councils. This cannot be completed by August 2022. The timing should align with the requirements under the NPS-UD for Future Development Strategies to be completed by 2024.
- In the Waikato context, allow the three-waters business case work currently underway to be completed and to inform the FDS, rather than embed development rights through the Bill which may not be able to be serviced with stormwater, wastewater and water infrastructure in a way that meets the requirements of Te Ture Whaimana.
- In the Waikato context the Bill needs to consider the allocation of scarce resources needed to support the development capacity (e.g. water takes) PRIOR to locking in development rights through the Bill.
- Expressly recognise the primacy of Te Ture Whaimana in the Bill as a “Qualifying Matter” which will enable areas within the Waikato to be exempt from the MDRS planning standards.

Which territorial authorities and which urban environments does the Bill apply to?

The Bill contains some critical inconsistencies in the way it uses terminology, which means that it is almost unworkable in its current form in the Waikato context. In the explanation to the Bill, and in the regulatory impact statement, it is clear that the proposals are meant to relate to ‘cities’ and it is quite clear that the Bill was not intended to apply to Tier 3 urban environments (emphasis added):

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

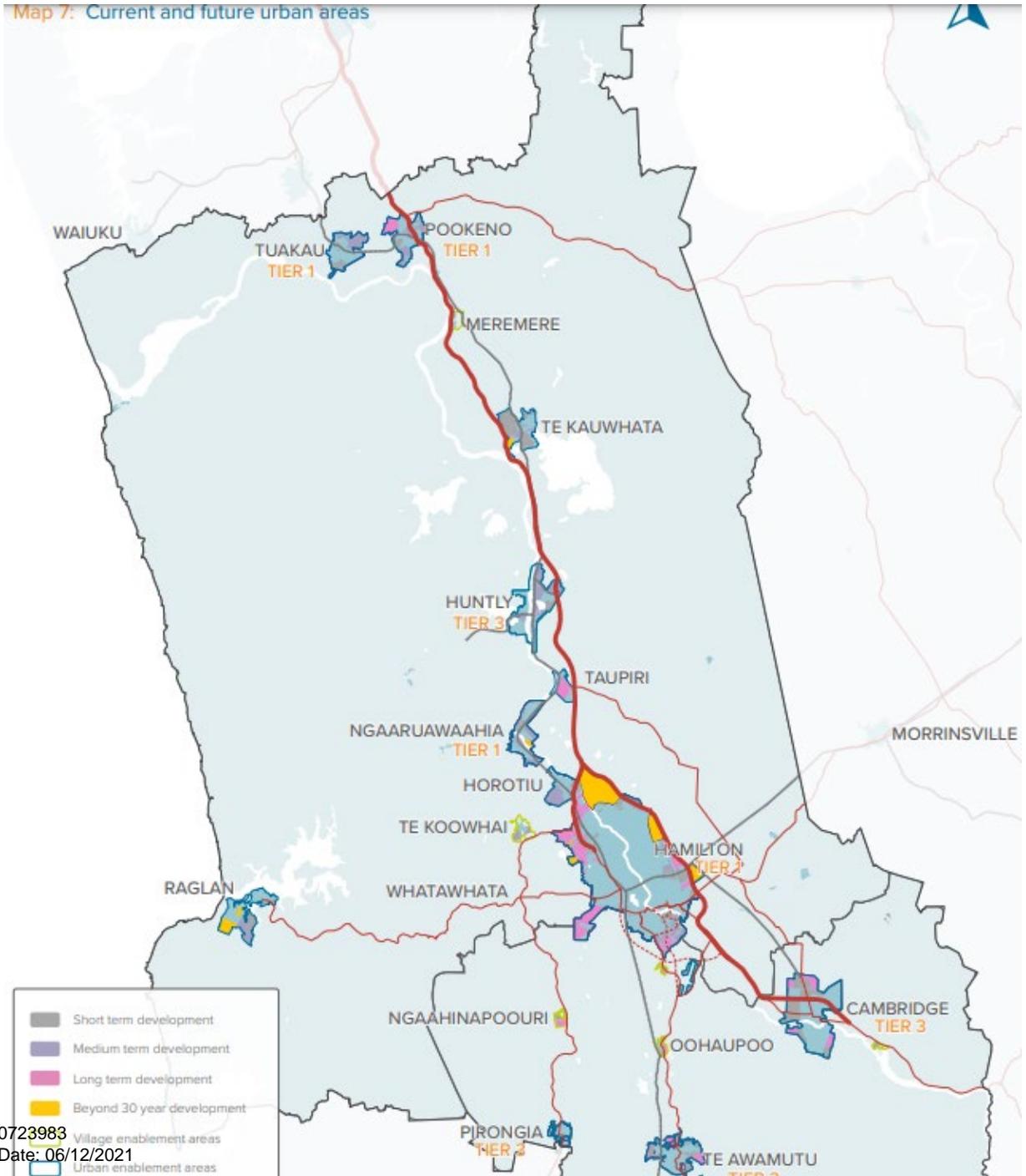
The Bill uses the terms ‘Tier 1 territorial authorities’, ‘relevant territorial authorities’, and ‘urban environments’ to determine where intensification planning instruments, and the MDRS, will apply.

There are some critical inconsistencies in the language used in the Bill. For example:

- The requirement to use the Intensification Streamlined Planning Process (ISPP) to notify plan changes that address the NPS-UD and incorporate the MDRS (intensification planning instruments) by August 2022. This requirement applies to all urban environments (by implication, Tiers 1 and 3 urban environments) within ‘Tier 1 local authorities’, however the NPS-UD provisions referred to (policies 3 and 4) only relate to ‘Tier 1 urban environments’.
- In the explanation to the Bill it mentions that the MDRS will apply in all Tier 1 urban environments and that it applies to areas of Tier 1 urban environments that are zoned or being zoned residential.
- However, in the Bill itself, the MDRS requirements are not limited to Tier 1 urban environments but would apply to the **urban environment of a relevant territorial authority** (the definition of ‘relevant territorial authority’ is every Tier 1 territorial authority). For example, in s77F it states that every relevant residential zone in an urban environment of a relevant territorial authority must have the MDRS incorporated.

As written, the MDRS could apply to all urban environments in Waikato, Hamilton and Waipā. This would include all urban areas that meet the definition of Tier 1 and Tier 3 urban environments.

Future Proof has done significant work, using Statistics New Zealand data, to determine which townships meet the definition of Tier 1 or Tier 3 urban environments. This is shown on the draft Map 7 from the Draft Future Proof Strategy (see below). Note that the Strategy is open for consultation until 12 November. This map shows that Hamilton, Tuakau, Pookeno and Ngaaruawaahia meet the definition of ‘Tier 1 urban environments’ under the NPS-UD. Huntly, Cambridge, Te Awamutu and Pirongia meet the definition of ‘Tier 3 urban environments’. All other townships in the three territorial authorities do not meet the definition of ‘urban environment’ under the NPS-UD. The proposed amendment to the definition of ‘urban environment’ in the Bill would not affect this interpretation.



In our view the Bill as drafted is inconsistent with the purpose outlined in the explanatory notes. The application to our towns undermines the work we are doing at a local level to enhance placemaking with our local communities. Whilst Hamilton is almost entirely urban in nature, Waikato and Waipā councils have a number of settlements of varying size, set in large expanses of rural land. For example, Ngaaruawaahia is a settlement of less than 8,000 people which is located in the Waikato District but by virtue of its close vicinity to Hamilton's north boundary, is considered to be part of Hamilton's urban environment. Pookeno and Tuakau, in Waikato District, could be considered to be part of Auckland's urban environment. Waikato District also contains smaller settlements such as Raglan which do not currently qualify as an 'urban environment'. Waipā District contains the settlements of Cambridge, Te Awamutu, Pirongia and other smaller villages. It needs to be clear where the medium density residential standard (MDRS) are to apply.

It is entirely inappropriate to impose blanket medium density rules across small townships which have a very different character to the Auckland city environment on which the rules have been based.

These towns, as do all towns set in a rural context in New Zealand, currently offer residents a distinctively different living environment to that found in city urban environments. There are also commensurately lower levels of community services (e.g. public transport) and less sophisticated supporting infrastructure. Imposing the MDRS and a blanket provision for medium density housing will be totally out of character with that distinction and undermine the very identity and community outcomes of each town. This distinction needs to be recognised and provided for in planning standards.

Summary of our submission points:

- Amend all references to 'urban environments' in the Bill, and replace with 'Tier 1 urban environments';
- Amend all elements of the Bill to clarify that the Bill is only mandatory in Tier 1 urban environments and does not apply to Tier 3 urban environments or to Tier 1 territorial authorities where they do not have a Tier 1 urban environment within them;
- Amend all elements of the Bill to clarify that the requirements relating to MDRS for the Future Proof councils only apply to Tier 1 urban environments within Hamilton city and does not apply to neighbouring urban environments within the sub-region;

- Allow the application of the MDRS in Tier 1 urban environments outside of Hamilton and in Tier 3 urban environments in specific areas should the territorial authority, through a plan change process, seek to promulgate these;

Concerns with the blanket nature of the Bill's requirements

The Future Proof Partners are concerned that the indiscriminate application of the proposed MDRS to Tier 1 urban environments (and potentially to Tier 3 urban environments as discussed above) has the potential to undermine the intent of the NPS-UD to create well-functioning urban environments. The dispersed and unpredictable nature of how development can occur under this proposal is at odds with creating a compact urban form which supports public transport, and makes it difficult to plan infrastructure upgrades required to support this level of additional growth. Of particular concern is the ability to provide the required level of service for three waters.

The blanket approach to the application of the MDRS will make it harder to invest in a targeted way for future infrastructure needs, and risks spreading growth over a larger area compromising the ability to reach the critical mass needed for transport interventions. This has significant cost implications – not just for councils but also for Central Government, particularly Waka Kotahi.

The Future Proof partnership has expended a considerable amount of time and resources to determine a settlement pattern that supports efficient and effective public transport and supports a shift from private cars to other forms of transport. The NPS-UD Objective 8 states “New Zealand’s urban environments: (a) support reductions in greenhouse gas emissions”; the Future Proof Strategy looks to achieve this in part by providing for a compact urban form that supports less carbon intensive transport modes such as active and public transport.

The Future Proof Waikato councils have undertaken significant work already to give effect to the NPS-UD. This work has been methodical and strategically aligned, based on the original criteria within the NPS-UD and underpinned by existing Housing and Business Capacity Assessment work.

The current targeted approach to planning for intensification is considered better placemaking for the existing and future communities of the sub-region than the poorly integrated land-use approach the proposed Bill appears to promote.

The Bill adds additional work and will require elements of the work already undertaken to give effect to the NPS-UD to be reworked. This is frustrating at a time when there are already resourcing issues in the sector, and while other significant reforms are taking place. As a consequence of this Bill, some significant plan changes and district plan reviews across Tier 1 councils will be delayed and some may need to be withdrawn, compounding the issue of land availability and ironically delaying housing land supply further as a result.

Where relevant to each of the Future Proof councils, the consequences of the Bill's proposed transitional provisions and implications for existing plan changes underway are further elaborated upon in Part B of this submission.

A more focused, staged approach to intensification supports thriving and resilient communities which are accessible and connected to employment, education, social and cultural opportunities - a central crux of the NPS-UD in creating well-functioning urban environments and improved four-wellbeings through the Government's Policy Statement on Housing and Urban Development 2021 (GPS-HUD).

Focusing growth in more targeted areas also provides councils with a manageable framework to plan for the funding and coordinated delivery of infrastructure needed to service it. The Future Proof Strategy concentrates higher densities into targeted areas, usually around city/town centres, with proximity to current and future public transport and with good amenity. This is aligned with infrastructure roll out as identified through the LTP process under the Local Government Act 2002. Any introduction of blanket medium-density needs the infrastructure (hard and social) picture to be aligned to support healthy communities as per the NPS-UD.

Summary of our submission points:

- The Bill should not apply the MDRS as a general residential standard. The MDRS should be able to be applied through council plan changes in bespoke areas where it can be shown that this will result in well-functioning urban environments.

Sufficient plan-enabled development capacity already

The Future Proof Partners question the timing of this Bill and the proposed blanket introduction of medium density housing enablement. The

proposed amendment to the RMA seems to be a belated response to a problem that most councils are now well advanced in addressing.

The Future Proof Partners have not been reticent in planning for growth. Together we have spearheaded spatial planning for growth at a regional scale, and further with our Auckland neighbours, through the Hamilton to Auckland Corridor and Metro Spatial Plan work. This Bill effectively shifts the bar again for councils by effectively enabling the tripling (or more) of planned densities throughout the existing city and townships. These changes are also being imposed despite the Housing and Building Development Capacity Assessment (HBA) demonstrating the additional NPS-UD and Bill measures to boost housing supply are not required to meet growth.

It is disappointing the Ministry for the Environment's Regulatory Impact Statement (RIS) does not take into consideration the recently submitted HBAs of Tier 1 councils in its assessment of its MDRA and capacity options as they apply to individual councils.

It is not evident where the demand is to meet the supply of this medium density housing option. The Future Proof Partners have just completed their second HBA. Contrary to the statement in the Regulatory Impact Statement that planning decisions are not informationrmed by adequate evidence – the Future Proof HBA was developed in accordance with the evidential requirements of the NPS-UD. Development capacity supply through infill in specified locations and identified greenfield development was found to be more than sufficient to meet anticipated short, medium and long term demand – in fact overall in terms of plan-enabled capacity there is well in excess of what is required. The Future Proof councils' district plans are not a constraint to meeting demand. Infrastructure provision is potentially more of a barrier to the development of housing than the level of supply available under current and proposed district plans in the Future Proof subregion.

Stats NZ building consent figures for September 2021 indicate that a record 47,331 new homes were consented in the year ended September 2021, up 25 percent from the year to September 2020. Multi-unit homes accounted for 46 percent of all new homes consented nationally in the year ended September 2021, up 40 percent from the year to September 2020. In Auckland, multi-unit homes accounted for two-thirds of all new homes consented in the latest year, and nearly one-third of those in the Waikato region.

The driver for demand has been population growth but over the last year as evident in the latest Stats NZ figures there has been no international migration, not a lot of New Zealanders returning and little internal growth. Auckland's population fell by a 1,000 people for the

first time ever. A key driver of demand has significantly reduced and it is unclear when growth will return to pre-pandemic levels.

Design Quality of the Built Environment

The Future Proof Partners want to build better urban areas, not just bigger or denser urban areas. It's about building quality communities - not just houses. The Bill does not align with the Government's own focus on the four wellbeings, and has the potential to compromise amenity and liveability for a short-term gain in housing numbers.

The Future Proof Partners have concerns about the design quality of the built environment resulting from blanket implementation of the Medium Density Residential Standards (MDRS) rules.

Once passed into law, the Bill will require Hamilton City Council, and potentially Waikato and Waipā District Councils (depending on the response to our submission point above), to adopt the MDRS rules set out in the Bill. The MDRS sets seven building requirements to enable development and must be incorporated into RMA plans for current and future residential zones in Tier 1 urban environments. The requirements will enable landowners to build up to three houses of up to three storeys on their site as of right on most sites. This includes alterations to existing buildings.

The Future Proof Partners are of the view that the MDRS rules are very blunt, and many do not provide good urban design outcomes, particularly given the range of urban areas that we have in the Waikato, ranging from small villages and townships, through to larger townships, and the city of Hamilton. The density and heights being required have been modelled on the Auckland Unitary Plan provisions. Whilst this might work in Auckland, where there are a range of city amenities, including rapid and frequent public transport provision, it will not translate well into the Hamilton context, or into smaller townships outside of the city.

In terms of urban design, there are two issues – macro urban design (for example ensuring good placemaking across the board with good PT, walking, cycling, local facilities and amenity) and micro urban design (for example the design of the buildings). Whilst the Bill focuses on the micro urban design, it does nothing in terms of the consideration of macro urban design issues.

We recognise that Government is prioritising the provision of housing but that should not be at the expense of good urban design outcomes. We have concerns that the proposed permitted baseline for medium density housing is in conflict with the central ethos of the NPS-UD and the recently released Government Policy Statement on Housing and Urban Development (GPS-HUD), which is to create liveable communities and well-functioning urban environments.

Consideration does need to be given to adjoining properties and potential loss of sunlight and passive home heating. Avoiding these unintended consequences from the introduction of medium-density is a crucial concern for the Future Proof Partners, and relates to maintaining healthy communities over time.

Summary of our submission points:

- Amend the Bill to allow consideration of place-based macro urban design issues so that MDRS provisions are only embedded in locations where good place making and well-functioning urban environments can be achieved;
- Consider changes to the medium-density rules to ensure that the provisions address urban design concerns.
- Consider standards or guidance which provide opportunities for new buildings that support climate change objectives, including opportunities for active solar collection in the future, green buildings, and on-site retention of water and re-use of greywater.

Significant increase in pressure on existing infrastructure

Increased densities of the kind enabled by the Bill will grossly exceed the capacity of existing infrastructure. Even under the provisions of the NPS-UD councils face huge challenges in terms of their ability to plan for infrastructure to meet these requirements under current fiscal constraints. The Bill will introduce densities which will result in capital expenditure on infrastructure which exceeds the ability for councils to fund at a local government level.

The Bill does not address or acknowledge the infrastructure funding and financing shortfall to support an integrated solution for a step change in intensification, which would now be required across the entire city and potentially across all townships in the sub-region which meet the Tier 1 and 3 urban environment definition. The councils' infrastructure was not designed to support the full realisation of the current infill plan enabled capacity, never mind the increased densities being anticipated under the NPS-UD and now this Bill.

Under the LGA 2002 councils have an obligation to adopt a prudent financial strategy. It will be impossible for councils to fund the scale of infrastructure required to meet these new density expectations whilst still complying with financial strategies and LGA requirements around prudent debt limits. Even before the Government began imposing further obligations on councils to enable more housing (through the NPS-UDC and now the NPS-UD) councils have advocated for additional funding tools from Government to enable councils to deliver on these new requirements. The current opportunities for government funding are effectively ad-hoc, random and outcome-uncertain invitations to compete with other councils for funding. These initiatives are not a substitute for a proper funding toolbox. Better funding options are needed to enable high-growth councils to appropriately and sustainably plan and deliver the infrastructure needed to support growth and to avoid unacceptable adverse effects on the environment.

There is no mention in the regulatory impact statement, the explanation to the Bill, or in the Bill itself of any associated Government funding for addressing the potential impacts of increased housing density on existing urban infrastructure.

Infrastructure for consideration needs to be more than traditional roading, three waters and parks. As an example, roading needs to be expanded to transport - it is not about moving only cars and freight between towns and cities, but public transport (PT) and active mode opportunities for all. The need for social infrastructure, usually TA-led, not by developers, is generally left out of these conversations around increasing density. Higher density will necessitate more open space and park uses (active and passive) to maintain a quality of life. High density puts pressure on community facilities (halls, pools and libraries) and how people use them. Education facilities (primary and secondary), an integral part of communities, can be overwhelmed by significant increases in population if they are not planned for in advance with land and buildings.

Given the blanket nature of the proposed zone and high impervious surface allowance [50-60%] there will be corresponding loss of urban trees and vegetation and an increase in stormwater run-off. This has both a social and environmental effect. Where medium density is proposed there needs to be access to parks and reserves and consideration of plantings within new greenfield sites along access ways and new open spaces, to offset absence of trees within lots. Low impact design around stormwater can also add vegetation to these developments and offset impervious runoff.

There are already significant unfunded infrastructure investments needed in the life of the Future Proof Waikato councils' 30 Year infrastructure strategies to enable further infill/intensification to support the current plan enabled capacity.

Failure to ensure the nature, location and timing of intensification of the scale promoted by the NPS-UD and this Bill is aligned with necessary new and/or upgraded strategic and local infrastructure will lead to adverse environment, cultural and public health effects from, for example, increasing wastewater overflows and increasing volumes of untreated stormwater, and water pressure issues compromising fire-fighting supply. This fails to ensure councils are giving effect to Te Ture Whaimana o Te Awa o Waikato, Te Mana o te Wai, and is not an indication of a liveable community and well-functioning urban environment.

Ad-hoc, reactionary 'patching' of existing infrastructure to deal with incremental growth demands is not a sustainable approach. Proper infrastructure planning involves understanding and setting a strategic approach for supporting the maximum probable development based on what district plans enable and other spatial planning, then working back in intervals to match infrastructure delivery to growth. In this way the overall infrastructure programme is aligned with growth, integrated with landuse planning, and works towards a properly planned, fit-for-purpose city-full network. Reactionary development-by-development approaches to patch infrastructure creates a failure-before-fix situation risking adverse environmental effects. It also has the real potential to result in wasted infrastructure investment, for example with pipework being replaced multiple times, before coming close to its end-of-life, to incrementally increase capacity.

The timeframes in the Bill itself provides little to no opportunity for robust infrastructure planning to even occur, never mind dealing with actual implementation/construction within an existing urban environment with an existing community that will continue to need water, wastewater, stormwater and transportation services, including the lead-in times necessary for the scale of infrastructure works required. This

in itself represents poor integration between land use and infrastructure decisions, with the environment and existing community facing the repercussions.

Additionally, the Bill does not align with the direction in the Draft New Zealand Infrastructure Strategy Rautaki Hanganga o Aotearoa 2021. This strategy recognises that to achieve a thriving New Zealand, we need a world class infrastructure system. Objective 3 of the strategy is to building attractive and inclusive cities that respond to population growth, unaffordable housing and traffic congestion through better long term planning, pricing and good public transport. In addition, Objective 4 (Strengthening resilience to shocks and stresses by taking a coordinated and planned approach to risks based on good quality information) is clearly at odds with the Regulatory Impact Statement for the Bill. As noted previously, the RIS lacks any meaningful or credible information (including nil consultation with local government) to underpin the Bill. We submit that the current Bill does not assist in enabling long-term infrastructure planning or good public transport solutions.

In summary, the Bill in the current form inadequately recognises the role that infrastructure plays in supporting growth and will create an irreconcilable conflict with the intent of other national directives, including the higher order Te Ture Whaimana o Te Awa o Waikato.

Summary of our submission points:

- Provide certainty that there will be guaranteed funding options made available for councils to fund the infrastructure required to support the level of intensification required by the Bill;
- Amend the Bill to allow areas to be excluded from the MDRS where there is insufficient existing or planned infrastructure capacity to support the level of intensification.
- Explicitly allow for councils to plan, stage and sequence land use changes to align with the delivery of infrastructure necessary to avoid adverse effects on the environment including recognising the need for that infrastructure to align with a strategic, city-full infrastructure network.
- Ensure councils can control and/or limit development where it would otherwise lead to non-compliance with its regional abstraction and discharge consents.
- Allow for councils to apply additional on-lot controls necessary to assist with managing the environmental impacts of growth, for example

requiring water sensitive devices.

- Re-think the timeframes for when this Bill would come into force given the NPS-UD HBA demonstrates sufficient short- and medium-term supply for growth in order to allow proper infrastructure planning, staging, and funding work to be completed.
- Urgently consider and provide additional funding tools to allow councils to accelerate the delivery of infrastructure to support additional plan-enabled capacity.
- Retain clause 8 (b)) – “A reference to relevant engineering standards applying in the relevant residential areas to which the MDRS applies”. This may result in activities requiring resource consent where engineering standards cannot be met, which would provide an appropriate mechanism for ensuring infrastructure requirements were met.

NPS UD definition of ‘urban environment’

The Future Proof Partners support the proposed amendment to the NPS-UD to change the definition of urban environments to include reference to ‘intended to be’ in relation to territorial authorities. This is consistent with how Future Proof have defined “urban environment” in Future Proof Strategy.

Summary of our submission points:

- Retain the proposed definition of urban environments as set out in the Bill.

Natural hazard risk and residual risk

The Bill does not mention what the impact of increasing intensification has on natural hazard risk and residual risk. The Waikato Region has a several settlements such as Huntly that are protected by Waikato Regional Council stopbanks. Intensification in these locations would increase the residual risk.

Natural hazard risk assessments are required for any new development, however there is no guidance on risk thresholds, especially when intensifying residential development. This is particularly important for future climate exacerbated hazards. The NPS-UD Objective 8

states “New Zealand’s urban environments: (b) are resilient to the current and future effects of climate change”.

For example, HCC is accelerating its programme to produce 100yr flood hazard mapping and overland flowpath information to cover the entire city - currently most of the urban environment does not have detailed flood hazard modelling information. Individual developers will generally not be sufficiently experienced or resourced to undertake the catchment-scale work needed to produce this type of information. In the absence of this information the Bill would, by default, allow significant development on land potentially affected by flood hazards. This will put people and property at risk during a flood event.

Summary of our submission points:

- Amend the Bill to explicitly require a natural hazard risk assessment, including an assessment of residual risk, prior to the notification of intensification planning instruments to include the MDRS. As above, this will mean that additional time will be required in order to undertake a natural hazard risk assessment.

Schedule 3 - New Part 4 inserted into Schedule 12

We suggest considering an extension to the date given in Schedule 3 for plan changes to have incorporated the MDRS as the proposed date may inadvertently capture plan changes that have had substantial work undertaken to get them to the point of notification and then have to be withdrawn in part or whole because they were notified without the inclusion of the MDRS. For example, HCC has just notified a plan change to their district plan to update the structure plan for a long planned for greenfield area at Peacocke to the south of Hamilton. The plan change is to update the existing structure plan to reflect policy direction to create a more compact urban form well supported by multi-modal transport. Submissions on the plan change closed on 5 November 2021, after which submissions will need to be summarised, further submissions called for, and s42 reports prepared ahead of hearings. Given the time of year, it is very unlikely that this will be completed ahead of the February 2022 deadline.

Summary of our submission points:

- Extend timeframes to allow plan changes that have already been notified to complete their process. Alternatively, allow for plan changes that have been notified but hearings not held to be able to proceed if they incorporate the MDRS.

Timeframes

The Future Proof Partners have serious concerns and reservations around the Bill's projected timeframes for delivery of intensification of housing in urban areas, which is due to commence in August 2022.

Given the climate facing the building industry, particularly regarding the current and predicted foreseeable worldwide supply chain disruption and its impact on the likes of building supplies/material, these timeframes appear to be overly ambitious in terms of the projection of delivering up to 105,500 homes over the next eight years.

The timeframes do not allow adequately for the Future Proof Waikato councils to address the necessary requirements related to Te Ture Whaimana or to plan for the required infrastructure to support the proposed changes.

Summary of our submission points:

- Delete the August 2022 requirement for notification;
- Add a requirement to report to government on the progress being made on changes;
- Align the implementation timeframe of the MDRS with the requirements for completion of an FDS under the NPS-UD.

Climate Change and the Environment

It is unclear how the blanket introduction of MDRS aligns with the central government's commitment to address climate change and its greenhouse gas emissions targets. Objective 8 of the NPS-UD seeks to achieve urban environments that support reductions in greenhouse gas emissions and are resilient to the current and future effects of climate change. The blanket application of the MDRS will not integrate with levels of accessibility by public and active transport and could work against achieving the critical mass required to support public transport

interventions. This outcome is not in accordance with the NPS-UD objective of creating well-functioning urban environments which have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport.

Higher residential densities with reduced open space allowances will result in there being less green space and less trees in our urban environments. The reduction in green open space and trees together with the increase in hard heat absorbing surfaces, risks increasing urban heat, especially when average temperatures are rising and the number of hot days per year increases. This poses a long term risk to health and wellbeing.

Summary of our submission points:

- Consideration should be given to opportunity for passive energy opportunities for each dwelling and its occupants;
- Consider standards or guidance which provide opportunities for new buildings that support climate change objectives, including opportunities for active solar collection in the future, green buildings, and water retention and re-use, and low impact urban design features for stormwater.
- Amend the Bill to ensure locations of MDRS areas are consistent with achieving good public transport and active transport accessibility between housing, jobs, community services, natural spaces and open spaces.

Regulatory Impact Statement for the Bill

The Future Proof Partners note that the Regulatory Impact Statement (RIS) for the Bill was finalised on 21 May 2021. The Bill appears to be a solution for Auckland and Wellington, but Hamilton is barely mentioned in the RIS – for example Auckland is mentioned 24 times in the RIS but Hamilton is only mentioned 4 times. The smaller towns around Hamilton are not mentioned at all. Despite this lack of analysis, the Future Proof partner councils are expected to work with the same provisions in the Bill.

The RIS itself makes a number of observations about its limitations. For example, in the ‘Executive Summary’, under the section entitled ‘Limitations and Constraints on Analysis’ (page 2), it states that *“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”.

Similarly, the section entitled ‘Stakeholder Engagement’ (page 2) notes that *“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”.*

Clearly there was no engagement with the local government sector or iwi when developing the RIS. Given the critical role of local government and iwi in the Bill, this is both surprising and indeed, in our view, a major flaw in the background material underpinning the Bill’s development.

Under the section ‘Empirical Data’ (page 3), the RIS notes that *“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”.*

Given the above examples of patent shortcomings in the RIS, the Future Proof Partners are strongly of the view that this Bill is being pushed/rushed through with no real detailed analysis or robust engagement, or any clear understanding of unintended consequences.

This is further emphasised in the Joint Regulatory Impact Analysis Review Panel’s assessment and comments on page 4 of the RIS i.e:

- *“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”.*

In terms of infrastructure, the RIS makes broad and incorrect assumptions on what has been funded in council 10-year plans, and demonstrates a poor understanding of how infrastructure planning and implementation works in conjunction with landuse planning and 10-year plan funding. This would appear to be a key source of failure in how the Bill fails to appropriately address infrastructure.

Plan change costs

The Future Proof Waikato councils have all been working hard to develop provisions to give effect to the NPS-UD, at significant cost to their ratepayers. This investment could effectively be wasted if existing plan change/plan review work needs to be set aside.

The plan change to give effect to the MDRs will require money and resourcing, both of which have not have been provided in this year's LTP or Annual Plan. Local authorities are going to have to find money and resourcing from elsewhere to fulfil the requirements of the Bill. This action is likely to result in the removal of wellbeing focused projects and priorities.

ISPP process

The Future Proof Waikato councils acknowledge the intention of the Intensification Streamlined Planning Process (ISPP) to provide a faster, easier and less costly plan change avenue. However, we are concerned that now allowing for a full consultation process excludes communities from having proper input into what will be a significant change for our urban areas.

If the existing ISPP proposals are intended to remain, the Future Proof Waikato councils suggest consideration could be given to allowing for joint ISPP hearing processes. This would allow councils to run their processes together or in parallel and make use of the same hearing panel.

Specific Changes to the Resource Management (Enabling Housing Supply & Other Matters) Amendment Bill

Suggested amendments are shown in underline and italics, and strikethrough.

RM Amendment Bill Reference	Scope of Amendment	Reasons
Whole Bill	<p>Amend all references to 'urban environments' in the Bill, and replace with 'Tier 1 urban environments'</p> <p>Amend all elements of the Bill to clarify that the Bill is only mandatory in Tier 1 urban environments and does not apply to Tier 3 urban environments or to Tier 1 territorial authorities where they do not have a Tier 1 urban environment within them</p> <p>Amend all elements of the Bill to clarify that the requirements relating to MDRS for the Future Proof councils only apply to Tier 1 urban environments within Hamilton city and not to neighbouring townships.</p> <p>Allow the application of the MDRS in Tier 1 urban environments outside of Hamilton and in Tier 3 urban environments in specific areas should the territorial authority, through a plan change process, seek to promulgate these.</p>	<p>The suggested amendments would make the Bill consistent with the purpose outlined in the explanatory notes. Otherwise it would appear that Bill applies to Future Proof towns which would undermine the work being undertaken at a local level to enhance placemaking within our local communities. Whilst Hamilton is almost entirely urban in nature, Waikato and Waipā councils have a number of settlements of varying size, set in a rural context. It needs to be clear where the medium density residential standard (MDRS) are to apply.</p>
Clause 77F	<p>77F Medium density residential standards must be incorporated into plans</p> <p>(1) Every relevant residential zone in an urban environment of a relevant territorial authority must have the MDRS incorporated into that zone, <u><i>provided there is accessibility by existing or planned active or public transport to a range of commercial activities and community services and there is a clear demand for housing in that location.</i></u></p>	<p>The Bill should not apply the MDRS as a general residential standard in a blanket manner across a city or district. The MDRS should be able to be applied in areas where it can be shown that this will result in well-functioning urban environments and there is a clear need. This would also go some way towards addressing macro urban design outcomes.</p>
Clause 77G	<p>77G Qualifying matters in applying medium density residential standards to relevant residential zones</p>	<p>To acknowledge and confirm Te Ture Whaimana as a qualifying matter given</p>

RM Amendment Bill Reference	Scope of Amendment	Reasons
	<p>A relevant territorial authority may make the MDRS less permissive in relation to an area within a relevant residential zone if that change is required to accommodate 1 or more of the following qualifying matters that are present:</p> <p>(a) a matter of national importance that decision makers are required to recognise and provide for under section 6:</p> <p>(b) a matter required in order to give effect to a national policy statement (other than the NPS-UD), <u>including Te Ture Whaimana – the Vision and Strategy for the Waikato River</u>:</p> <p>(c) a matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure:</p> <p>(d) open space provided for public use, but only in relation to land that is open space:</p> <p>(e) the need to give effect to a designation or heritage order, but only in relation to land that is subject to the designation or heritage order:</p> <p>(f) a matter necessary to implement, or to ensure consistency with, iwi participation legislation:</p> <p>(g) the requirement in the NPS-UD to provide sufficient business land suitable for low density uses to meet expected demand:</p> <p><u>(h) the need to give effect to regional abstraction and discharge consents:</u></p> <p><u>(i) no ability to connect to the urban infrastructure network or insufficient capacity within the network:</u></p> <p>(h) <u>(i)</u> any other matter that makes higher density as provided for by the MDRS inappropriate in an area, but only if section 771 is satisfied.</p>	<p>that it is the primary direction-setting document for the Waikato and Waipā Rivers and was established under Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010. Te Ture Whaimana represents the strongest direction that Parliament has given in relation to any RMA planning document and it is the pre-eminent planning instrument within the Waikato region. It is particularly noted that in the event of any inconsistency or conflict, Te Ture Whaimana o Te Awa o Waikato prevails over any national policy statement or New Zealand Coastal Policy Statement.</p> <p>To allow for limits to be applied where this could lead to non-compliance with regional abstraction and discharge consents.</p> <p>To acknowledge the need for development to be able to connect to urban infrastructure networks</p>
Clause 77H	<p>77H Requirements in relation to evaluation report</p> <p>(1) This section applies if a territorial authority is amending its district plan (as required by section 77F).</p> <p>(2) The evaluation report from the relevant territorial authority referred to in section 32 must, in relation to the proposed change,—</p> <p>(a) in relation to an area for which the territorial authority is proposing to</p>	<p>The suggested amendments make it explicit that where there are natural hazards (a matter of national importance under section 6 of the RMA</p>

RM Amendment Bill Reference	Scope of Amendment	Reasons
	<p>make an allowance for a qualifying matter, demonstrate why—</p> <p>(i) the territorial authority considers that the area is subject to a qualifying matter; and</p> <p>(ii) the qualifying matter is incompatible with the level of development permitted by the MDRS (as specified in Schedule 3A) for that area; and</p> <p><u>(b) in the case of natural hazards, undertake a risk assessment, including an assessment of residual risk; and</u></p> <p>(b) <u>(c)</u> assess the impact that limiting development capacity, building height, or density (as relevant) will have on the provision of development capacity; and</p>	<p>1991) a risk assessment is required, including an assessment of residual risk.</p>
<p>Clause 80F</p>	<p>80F Relevant territorial authority must notify intensification planning instrument</p> <p>(1) The following territorial authorities must notify an intensification planning instrument on or before 20 August 2022:</p> <p>(a) every tier 1 territorial authority, <u>except for Waikato Regional Council, Hamilton City Council, Waikato District Council and Waipā District Council, who have until 20 August 2023:</u></p> <p>(b) a tier 2 territorial authority that is required by regulations made under section 80E(1) to prepare a change to its district plan or a variation to its proposed district plan.</p> <p>(2) A tier 2 territorial authority that is required by regulations made under section 80E(2) to prepare a change to its district plan or a variation to its proposed district plan must notify an intensification planning instrument on or before the date specified in those regulations.</p> <p>(3) A territorial authority must prepare the intensification planning instrument—</p> <p>(a) using the ISPP; and</p> <p>(b) in accordance with—</p> <p>(i) clause 95 of Schedule 1; and</p> <p>(ii) any requirements specified by the Minister in a direction made under section 80I.</p>	<p>This amendment allows sufficient time for the Future Proof Waikato Councils to analyse the impact of the intensification planning instrument on Te Ture Whaimana</p>
<p>Schedule 1 - New Schedule 3A inserted, Clause 8 (Other Matters)</p>	<p>Schedule 3A MDRS to be incorporated by relevant territorial authorities</p> <p><i>Other matters</i></p> <p>8 Other matters to be included in district plan in relation to MDRS</p>	<p>The Future Proof partners have concerns about the design quality of the built environment resulting from</p>

RM Amendment Bill Reference	Scope of Amendment	Reasons
	<p>The relevant territorial authority must include the following information in relation to the MDRS within the district plan:</p> <p>(a) the enabling objectives and policies for the MDRS; and</p> <p>(b) a reference to relevant engineering standards applying in the relevant residential areas to which the MDRS apply; <u>and</u></p> <p><u>(c) a reference to any urban design guidelines.</u></p>	<p>blanket implementation of the Medium Density Residential Standards (MDRS) rules. Incorporating urban design guidelines would go some way to ameliorating the micro urban design issues.</p>
<p>Schedule 1 - New Schedule 3A inserted, Part 2 – Building Standards</p>	<p>Incorporate the following matters into the building standards:</p> <ul style="list-style-type: none"> - Passive energy opportunities for each dwelling and its occupants. - Supporting climate change objectives, including opportunities for active solar collection in the future, green buildings, and water retention and re-use, and low impact urban design features for stormwater. 	<p>These amendments would align with the central government’s commitment to address climate change and its greenhouse gas emissions targets.</p>
<p>Part 4, Clause 31</p>	<p>Part 4 Provision relating to Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021</p> <p>31 Status of partly completed proposed plans and private plan change requests in tier 1 urban environments</p> <p>(1) This clause applies to the following in relation to the district plan of a tier 1 territorial authority:</p> <p>(a) a proposed district plan:</p> <p>(b) a private plan change accepted under clause 25(2)(b) of Schedule 1.</p> <p>(2) Subclause (3) applies if the instrument containing the proposed district plan or private plan change referred to in subclause (1)—</p> <p>(a) does, in whole or in part, 1 or more of the following things:</p> <p>(i) gives effect to policy 3 or 4:</p> <p>(ii) proposes changes to a relevant residential zone and those changes do not incorporate the MDRS:</p> <p>(iii) creates a new residential zone that does not incorporate the MDRS; and</p> <p>(b) has been notified on or before the commencement of this clause but a hearing under clause 8B of Schedule 1 is not completed on or before 20 February May 2022.</p> <p>(3) If this subclause applies, —</p>	<p>Like many growth area councils, the Future Proof Waikato councils have all been working hard to develop provisions to give effect to the NPS-UD, at significant cost to their ratepayers. This investment could effectively be wasted if existing plan change/plan review work needs to be set aside.</p>

RM Amendment Bill Reference	Scope of Amendment	Reasons
	<p><i>(a) the territorial authority may continue with the proposed plan, but only if the MDRS is incorporated;</i></p> <p>(a) <i>(b) otherwise,</i> the territorial authority must withdraw the part or whole of the proposed plan as relevant under clause 8D of Schedule 1; or</p> <p>(b) in a case where a private plan change has been accepted, the applicant must withdraw the request under clause 28 of Schedule 1</p>	

PART B – ADDITIONAL SUBMISSION POINTS OF THE WAIPĀ DISTRICT COUNCIL

Introduction

Part B contains additional submission points of particular issue and emphasis to the Waipā District Council.

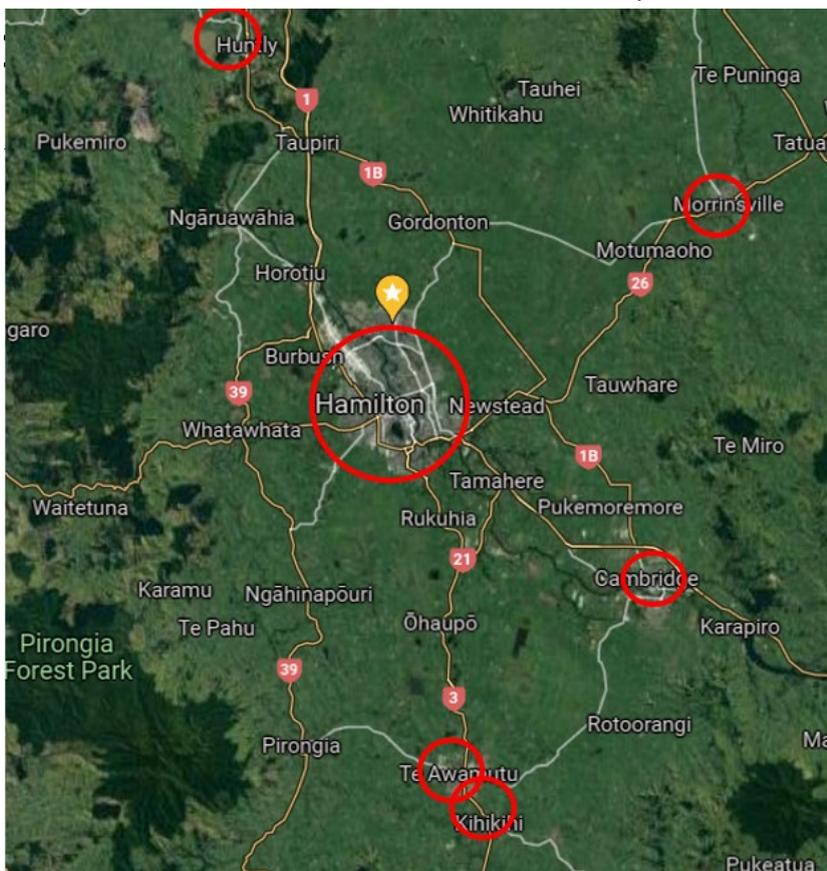
Specific Comments

1. The Tier 3 urban environments of Waipā District should be excluded from the Bill

The Waipā District Council (the Council) is strongly of the view that application of the provisions in the Bill to the three towns and tier 3 urban environments within the Waipā district is incorrect and the Bill needs to be amended and its scope clarified.

It is the Council's firm view that the Bill was intended to apply to the Country's major cities (as outlined on page 3 of the explanatory note in the Bill) and not to the Waipā District's Tier 3 towns and urban environments situated as they are as stand-alone urban entities in a largely rural context and very separate from Hamilton City (see Figure 1 below).

Figure 1 – Showing the rural location of our tier 3 Waipā towns and the other subregional tier 3 towns in relation to the tier 1 Hamilton City urban environment



None of the Waipā towns of Cambridge, TeAwamutu or Kihikihi are dormitory residential areas to Hamilton. Each town functions as a service centre for the surrounding farming area with more than 60% of each town's workers being employed within each town³. They are functional Tier 3 urban environments in their own right as recognised by Statistics New Zealand in their classification of urban environments.

While it is accepted that Waipā District Council is implicated as a Tier 1 territorial authority, it is in the context that it abuts Hamilton City's southern boundary⁴. As such, the Bill is correct in our view in stating on page 3 of the explanatory note, that the list of 14 territorial authorities *'that are responsible for all or part [emphasis added] of those tier 1 urban environments'*[Auckland, Hamilton, Tauranga, Wellington and Christchurch].

What is accepted by the Council, is that Waipā is partly affected by virtue of it having a shared boundary with Hamilton City Council such that any future expansion of the city southwards will be onto land that is currently within the Waipā District Council's administrative jurisdiction.

Where the Bill is, in our view, incorrect however, is in noting on page 3 that the proposed MDRS will apply to *'all existing residential areas, [emphasis added] except for areas zoned as large lot residential (as described in the National Planning Standards) or areas where qualifying matters apply'*⁵.

To be clear, the Council accepts that it has a part role to play in implementing the MDRS in the context of the Hamilton City Tier 1 urban environment only. The Bill should be amended to clarify that it applies only to Tier 1 urban environments.

It is the Council's view that if the Bill is implemented without amendment, it is likely to have unintended and long lasting detrimental impacts on social, cultural, economic and environmental wellbeing for Waipās towns and urban communities (see Figure 1 below).

Summary of our submission point:

- Amend all elements of the Bill to clarify that the Bill applies in Tier 1 urban environments and does not apply to Tier 3 urban environments such as the towns of Cambridge, TeAwamutu and Kihikihi.

2. The MDRS should not have blanket application to the Tier 3 urban environments of the Waipā District

Urban planning research cautions that well intended but poorly integrated and designed housing developments, frequently fail to deliver outcomes as intended and tend to result in a long lasting blight on adjacent urban areas that is hard to rectify. A frequently used

³ Stats NZ 2018 Census informationrmation.

⁴ Hamilton City is possibly unique amongst New Zealand's cities in having no rural periphery to speak of. Instead it's administrative boundary is for the most part it's urban edge.

⁵ This wording is carried through into proposed new section 77F in the Bill.

example is the residential apartment tower blocks built in and around many British towns and cities from the early 1950s to the late 1960s⁶. The Council is engaged with our communities in endeavouring to improve community wellbeing and to this end is committed to numerous workstreams and projects, including the development of a district-wide Community Spatial Plan.

The introduction of a blanket enablement of medium density housing is likely to discredit much of this work. It has the effect of relegating the Council's role to a reactionary one responding to the servicing and utility needs of ad-hoc housing intensification developments peppered across our towns' residential environments.

It also more directly works against the objectives of the Council's 2021-31 Long Term Plan as well as several of the objectives of the NPS-UD. These objectives speak to the need for a planned and integrated approach to housing intensification.

Objective 1: New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.

Objective 3: Regional policy statements and district plans enable more people to live in, and more businesses and community services to be located in, areas of an urban environment in which one or more of the following apply:

- *the area is in or near a centre zone or other area with many employment opportunities,*
- *the area is well-serviced by existing or planned public transport,*
- *there is high demand for housing or for business land in the area, relative to other areas within the urban environment.*

Summary of our submission point:

- The Bill should not apply the Medium Density Residential Standard (MDRS) as a general residential standard and particularly not to well-functioning tier 3 urban environment towns like Cambridge, Te Awamutu and Pirongia in Waipā or Huntly in Waikato District (see Figure 1 above). Interestingly Morrinsville which is a similar distance from Hamilton, is excluded because it is in Matamata-Piako District.
- The MDRS should be able to be applied through council plan changes in areas where it can be shown that this will result in well-functioning urban environments and in line with the objectives of the NPS-UD.

⁶ These tower blocks were seen a quick solution to the housing shortage created by the German bombing of British urban areas during the Second World War. They were tall building surrounded by open space and often built on the periphery of towns. They quickly became hugely problematic from a social and crime viewpoint due to their peripheral location and unsuitability as a living environment for families with young children.

3. Consequential network infrastructure impacts

Enabling medium density in an ad-hoc and laissez-faire manner across our residential areas without prior planning and consideration of location and services, is likely to have considerable unintended costs that will be borne by the Council and the wider ratepayers.

With development likely to occur in an ad-hoc manner over time, it will be difficult to determine when and to whom, the true costs of this development will apply. Most of the existing reticulated infrastructure can bear some increase in loading but there will be a tipping point reached when due to one more ad-hoc housing development, an entire water, wastewater or stormwater network will need to have its capacity upgraded with a direct and immediate debt cost to the Council.

It will be very difficult to anticipate and plan for when that point in time is reached when an entire piped network infrastructure upgrade is required. That point will depend on the unpredictable cumulative impact of numerous individual intensification projects spread out over time and space. It will only be at that point though, that some of the previously unknown costs of intensification will be manifest. It is difficult to see how the costs and benefits of ad-hoc unplanned intensification can be fairly allocated on a retroactive basis.

Summary of submission point

- The Bill fails to recognise the tension between the present day potential private financial benefit the MDRS provides to current residential property owners versus the unknown future public financial costs to the Council and wider ratepayers resulting from the cumulative loading on network infrastructure. For this reason the MDRS should not be applied as a blanket standard to all residential zones of the Waipā districts towns.

4. Amending the RMA

This Bill will further amend an already overly complex piece of legislation that Central Government has agreed to urgently replace. It seems totally non-sensical to require public submissions, and hearings on a prescribed set of standards that have effect from notification. The proposed ISPP process will not be streamlined or efficient, as it still requires submissions, further submissions, and hearings. In addition, it confers highly unusual and totally unprecedented powers to the commissioners to make decisions beyond the scope of submissions, and to apparently make decisions beyond even the scope of the plan change that was notified. This appears to be an extremely risky and untested precedent.

The Council suggest that if Government is intent on setting national standards for medium density housing, then consideration should be given to using the National Environmental Standards pathway (modified to address the concerns around carte blanche intensification), would be far more efficient, effective and streamlined. A National Environmental Standard (NES) on medium density housing appears to offer a more effective, efficient, timely and a lot less expensive to implement option to amending the RMA in its last years of application.

The Bill cuts directly across the NPS-UD 2020 which local authorities are already working to

implement.

As proposed, there is a one year delay before the Bill comes into effect through the proposed ISSP plan change process. If the government firmly believes this is the way to go in respect of affordable housing, then they could develop a national environmental standard which would direct local authorities to update their district plans to incorporate the required standards.

A related issue is how does central government intend transferring the medium density residential standards into the new national planning framework proposed under the Natural and Built Environments Act?

Summary of submission point

- Give serious consideration to replacing the Bill with the introduction of a national environmental standard on enabling medium density housing that should be more efficient, effective and streamlined as well as less expensive to introduce. It should be better integrated with the existing NPS-UD and not have carte blanche application throughout all urban residential zones.

5. Conclusion

The Council strongly considers this Bill to be critically flawed and that it should be withdrawn.

If the Government does not withdraw the Bill, then it substantial amendment due to the critical flaws outlined in this submission. The Council is of the view that if the Bill is left in its current form the Bill is likely to have many unintended, long lasting and hard to undo, adverse effects on urban environments and the residents of the District's towns.

The Council is strongly of the view that application of the provisions in the Bill to the three towns and their tier 3 urban environments within the Waipā district is incorrect and the Bill be amended and its scope clarified.

If the Government agrees to amend the Bill, then the Council is of the view that the proposed amendments made by this Council and its Future Proof partners need to be implemented as a package.