

Regulatory Impact Statement: Going for Housing Growth – Freeing up land for development and enabling well-functioning urban environments

Coversheet

Purpose of Document	
Decision sought:	The purpose of this analysis is to inform Cabinet decisions on policy changes related to freeing up land for development and enabling well-functioning urban environments as part of the Government’s Going for Housing Growth commitments. This includes the introduction of Housing Growth Targets, making the Medium Density Residential Standards optional for councils, new intensification and mixed-use requirements, and new compliance powers for central government.
Advising agencies:	Ministry of Housing and Urban Development (HUD); Ministry for the Environment (MfE)
Proposing Ministers:	Minister of Housing, Minister Responsible for RMA Reform
Date finalised:	12 June 2024
Problem Definition	
<p>New Zealand is experiencing a long-running housing crisis with a range of barriers to housing supply inflating house and land prices. While not the only driver of the housing crisis, a key contributor is that our urban land markets are neither as competitive, nor as well-functioning as they could be. This is driven significantly by district and unitary plans governed by the Resource Management Act 1991 (RMA)¹, which are in many cases insufficiently enabling of housing (and of commercial and community activities in proximity to housing). Recent national direction under the RMA, including the National Policy Statement on Urban Development 2020 (NPS-UD) and Medium Density Residential Standards (MDRS), has sought to increase development opportunities in existing urban areas, but some concerns have been raised that the MDRS in particular provides insufficient flexibility for councils and communities.</p>	

¹ District and unitary plans are referred to as “district plans” hereafter in this Regulatory Impact Statement (RIS) for simplicity.

Executive Summary

Proposals in this paper address options to give effect to the Coalition Government's Going for Housing Growth (GfHG) manifesto commitments to introduce Housing Growth Targets, enable greater intensification along transport corridors, and better provide for mixed-use development, as well as the National/Act coalition agreement to make the MDRS optional for councils.

Issue 1 – Providing sufficient development capacity

The NPS-UD requires councils to provide for at least sufficient development capacity to meet expected demand over the short, medium, and long term, plus a competitiveness margin. There are different requirements for what counts as development capacity over these different time horizons (i.e. at present, not all of this capacity needs to be live-zoned in operative district plans).² The NPS-UD also directs councils to enable higher levels of density in locations with high accessibility to a range of employment, services, and public transport (the NPS-UD intensification policies). The MDRS provide a set of standards (i.e. rules in a district plan) that enable three dwellings up to three storeys per residential section as of right across Tier 1 (and Rotorua) councils' urban areas.

It is not clear that current requirements, when combined with the proposal to make the MDRS optional, will sufficiently facilitate competitive urban land markets. This requires an abundance of development opportunities to shift market expectations of future supply and bring down the price of urban land.

We have considered the following options to address this issue:

- Option 1A – Status quo – councils are required to provide sufficient development capacity to meet demand over the short, medium, and long term (not all capacity needs to be live-zoned).
- Option 1B – Introduce Housing Growth Targets that require councils to provide (live zone) for 30 years' worth of development capacity immediately.
- Option 1C – Use price indicators in regulation as an automatic trigger for the release of development capacity, when these price indicators identify a land market is not well functioning.
- Option 1D (Agencies and the Minister of Housing's preferred option) – Option 1B + a requirement to ensure price indicators do not deteriorate over time, with councils required to enable additional capacity where these do deteriorate.

Issue 2 – Medium Density Residential Standards

There has been some negative reaction from councils and communities to the density enabled under the MDRS, in that it removes local control over where to enable density, and the nature of the density. If the MDRS are to be made optional as per the Coalition Government's stated objective, it is important that there is still an abundance of development opportunities to enable competitive urban land markets, and that development capacity is provided in a way that contributes to a well-functioning urban environment.

We have considered the following options to address this issue:

- Option 2A – Status quo – the MDRS remain mandatory for relevant councils.
- Option 2B – Amend the RMA to enable councils to opt out of the MDRS after a ratification vote via a plan change process.
- Option 2C (Minister of Housing's preferred option, agencies' preferred option given

² Live-zoning means to provide for housing to be enabled (i.e. land can be used for housing, potentially subject to needing a resource consent) in an operative (i.e. in effect) district or unitary plan.

Coalition Government commitments) – Amend the RMA to enable councils to opt out of the MDRS after a ratification vote via the Streamlined Planning Process if they demonstrate compliance with the Housing Growth Targets (see Issue 1 above), and have no net loss of development capacity from what would be enabled by having incorporated the MDRS and NPS-UD.

Issue 3 – Intensification

The NPS-UD intensification policies require councils to enable intensification in and around city, metropolitan, town, and local centres, and rapid transit stops, as these areas are some of the most suitable for intensification given the proximity to jobs, community facilities, and transport connections. The NPS-UD provides councils with some discretion about how these requirements are implemented, which in some cases has led to debate about how to apply the requirements. How these policies have been implemented has not always enabled as much housing as was anticipated. For example, Auckland Council has proposed not to enable intensification on 16,000 inner-city sites due to applying special character as a qualifying matter.

We have considered the following options to improve the NPS-UD intensification policies:

- Option 3A – Status quo – NPS-UD intensification requirements are retained without amendment.
- Option 3B – Refinements to existing NPS-UD intensification policies (reverting to the original requirement to upzone across urban areas in line with demand and accessibility, simplifying the definition of rapid transit, and clarifying the process requirements for applying qualifying matters).
- Option 3C (Agencies and the Minister of Housing's preferred option) – Extensions to the NPS-UD intensification requirements to enhance outcomes (Option 3B + additional requirements to enable intensification around council-identified transit corridors in addition to rapid transit stops, requiring lost development capacity from unlisted qualifying matters to be offset elsewhere, and specifying minimum catchment sizes).
- Option 3D – Prescriptive extensions to the NPS-UD intensification requirements to enhance outcomes (Option 3B + prescriptive extensions to the NPS-UD intensification requirements, with councils required to upzone around public transport stops reflecting service frequency, banning the use of special character qualifying matters, and specifying minimum catchment sizes (as under Option 3C)).

Issue 4 – Mixed-use development

Well-functioning urban environments provide, among other things, good accessibility for people between housing, jobs, community services, natural spaces, and open spaces, by way of public or active transport. Enabling a mix of activities (i.e. different types of commercial and community activities, in addition to residential activities) in locations close to where people live supports this outcome. Analysis of district plans found that they are broadly not enabling a mix of activities to the extent expected to facilitate a well-functioning urban environment, particularly in areas zoned for residential use. Enabling a greater mix of activities would support a number of benefits such as increased active and public transport use, and enhanced economic outcomes (e.g. increased productivity and competition).

We have considered the following options to address this issue:

- Option 4A – Status quo – councils retain full discretion about whether to enable mixed use zoning, where, and how.
- Option 4B (MfE's preferred option) – High-level direction would be provided to councils about the mixed-use outcome that they need to achieve, without prescribing the detail of what that should look like.
- Option 4C (HUD and Minister of Housing's preferred option) – High-level direction

would be provided to councils on the mixed-use outcome that they need to achieve, and specific direction on the activities that must be enabled to achieve this.

- Option 4D – Develop a full suite of mixed-use zone provisions.

Issue 5 – Monitoring and compliance tools

The NPS-UD requires councils to prepare Housing and Business Development Capacity Assessments (HBAs) to both:

- understand how much capacity their district plans currently enable and what the plans need to provide to be considered sufficient, and
- give councils a better understanding of their development markets, and the impact that regulation has on the delivery of housing.

The policy direction for HBAs currently provides significant discretion to enable an assessment that is fit for purpose for any given council. However, with a shift to rely on HBAs to determine whether a council can meet its Housing Growth Target, it is important that there is greater rigour in the assessment process and greater transparency in modelling methodologies, assumptions, and inputs used. This is important for central government oversight and assessment of the HBAs, and to understand whether Housing Growth Targets are being met. It is also important that there are appropriate and proportionate intervention pathways for central government in instances where there is non-compliance with requirements.

We have considered the following (non-mutually-exclusive) options to address this issue:

- Option 5A – Status quo – existing powers under the RMA apply.
- Option 5B (Agencies and Minister of Housing's preferred option) – Require councils to provide relevant information about HBAs to central government, better enabling officials to assess whether councils have complied with Housing Growth Targets.
- Option 5C (Agencies and Minister of Housing's preferred option) – Provide central government with a new discretionary power to require councils to amend part or all of their HBA, in the event of non-compliance with any relevant requirements.
- Option 5D (HUD and Minister of Housing's preferred option) – New discretionary power to direct councils to follow a streamlined planning process in the event of non-compliance with national direction.

Issue 6 – Minimum floor area and balcony requirements

Some councils set minimum floor area and balcony requirements to improve residential amenity and liveability, such as by ensuring new apartments are functional and do not adversely affect accessibility. However, minimum floor area and balcony requirements increase the costs of development, particularly for apartments at the lower end of the market.

We have considered the following options to address this issue:

- Option 6A – Status quo – councils may set minimum floor area and balcony requirements.
- Option 6B (Agencies and the Minister of Housing's preferred option) – Prohibit councils from setting minimum floor area and balcony requirements.

Costs and benefits

Compared to taking no action and maintaining the status quo, the Minister of Housing's preferred package of options (identified above) would have a range of benefits, including the following:

- Existing residents and future generations will benefit from plans that in many cases enable more development capacity than under status quo requirements. Providing more development capacity should result in housing supply that is more responsive to

price changes, and in turn lower housing prices for new housing market entrants compared to the status quo.

- Increased intensification (outside of making the MDRS optional) could increase the development capacity being provided in brownfields areas that are close to centres and good transport options, reducing car dependency, emissions, and congestion. Developers would also benefit from lower costs due to more clear resource consenting pathways for medium and high-density developments.
- Better-enabling mixed-use development could provide people with access to a greater range of goods and services closer to where they live, increasing competition, and reducing car dependency, emissions, and congestion.
- Where councils opt out of the MDRS, some residents would benefit from fewer changes to private amenity due to less residential intensification.
- Removing minimum floor area and balcony requirements will enable more homes to be built at a cheaper price point.

The package of option would also have a range of costs, including:

- Councils would be required to undertake additional plan changes to give effect to these proposals, incurring additional costs for ratepayers, while central government would need to dedicate additional resources to develop detailed proposals, monitor council compliance with new requirements, and potentially undertake compliance action. Developers and residents would face time and financial costs for engaging in plan change processes, while developers may face increased costs from increased consenting where councils opt out of the MDRS.
- Elements of the package which limit discretion will limit the ability of local communities (including iwi/Māori) to participate in local decision and place-making.
- Future generations and existing residents may be impacted by increased capacity in greenfield areas, rather than brownfield areas where councils opt out of the MDRS. Greenfield areas are likely to be further from public transport options and centres, increasing car dependency (and potentially congestion), and greenhouse gas emissions.
- Residents may be impacted by increased noise or other effects from greater intensification or a mix of activities in traditionally residential neighbourhoods, and some residents may consider increasing intensification to reduce private amenity.

Further detail is provided in the body of the RIS, and in the following annexes:

- Annex 1 sets out a list of Tier 1 and Tier 2 local authorities
- Annex 2 sets out council progress in giving effect to the MDRS and NPS-UD
- Annex 3 provides an explanation of current development capacity requirements
- Annex 4 sets out the development capacity being enabled under the status quo

Limitations and Constraints on Analysis

The analysis in this document has been limited and/or constrained by the following factors:

- Many of the proposals in this RIS relate to commitments in the National Party's 2023 GfHG Manifesto. GfHG is a key action in the Government's second quarter action plan, which commits the Government to take decisions to implement the GfHG plan, while making the MDRS optional for councils. Similarly, the coalition agreement between the National and ACT parties commits to making the MDRS optional. This has constrained the scope of options considered to achieve the desired outcomes. In particular, officials have assumed that councils will be able to opt out of applying the MDRS and therefore assessed options for how this is implemented.

- There have been significant constraints on the policy development timeframe that has limited the depth at which options have been developed and analysed. For example, there has been no time to commission cost-benefit analysis on the proposals.
- Very limited consultation with stakeholders has occurred on these proposals so far. More fulsome consultation will occur to test and refine detailed proposals following high-level policy decisions. We are aware that some developers, economists, and advocacy groups would prefer to retain the MDRS, while many councils consider that they already provide enough development capacity, and would prefer greater choice on development capacity provision rather than facing significant prescription.
- We are yet to engage with iwi/Māori on the GfHG programme. It will be important to do this to understand the perspectives of iwi/Māori on the proposals in this paper.
- Officials have not finalised the detailed design of Housing Growth Targets or required councils to undertake bespoke modelling of capacity yet, so it is difficult to state with confidence how much additional development capacity councils would be required to release under Options 1B or 1D.
- Work on the use of price indicators to inform the release of development capacity (see Issue 1) is less advanced than some of the other proposals considered in this RIS. These means that all of the implications of the use of price indicators, including under the preferred option (Option 1D) may not be captured in this RIS.

Responsible Manager(s) (completed by relevant manager)

Fiona McCarthy
Manager, Urban Development Enablement
 Ministry of Housing and Urban Development



12 June 2024

Rebecca Scannell
Programme Director
 Ministry for the Environment



12 June 2024

Quality Assurance (completed by QA panel)

Reviewing Agency:

Ministry of Housing and Urban Development and Ministry for the Environment

Panel Assessment & Comment:

The RIA Panel at the Ministry of Housing and Urban Development and the Ministry for the Environment has reviewed the regulatory impact statement for Going for Housing Growth – Freeing up land for development and enabling well-functioning urban environments and confirmed that it partially meets the requirements.

The executive summary notes the limitations and constraints on analysis. There was limited time both for the policy work and for the quality assessment. The coalition Government has committed to making the MDRS optional, which has limited the number of options considered in relation to that issue. Additional time and fewer constraints could have allowed the opportunity to identify alternative options and further develop the analysis.

There was limited consultation undertaken in the time available and no consultation with Māori/iwi who are disproportionately affected by poor housing. The executive summary notes that more fulsome consultation will occur to test and refine the proposals.

Section 1: Context, objectives, and criteria

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

The Going for Housing Growth plan seeks to address the barriers to housing supply

1. This paper assessing options that are part of the Coalition Government's GfHG plan, which originated in the National Party's 2023 GfHG election manifesto. It also builds on direction provided by decisions on the first GfHG Cabinet paper *Fixing the Housing Crisis* [CAB-23-MIN-0498].
2. The intent of the GfHG work programme is to ensure that more responsive land supply and development capacity creates more opportunities for development (i.e. more competitive urban land markets) that shift market expectations of future land supply and help bring down the price of land. Over time, this is expected to have a positive impact on housing affordability.
3. The GfHG plan is structured around three main elements designed to address the underlying causes of a persistent shortage of land supply and development capacity:
 - a. freeing up land for urban development, including removing unnecessary planning barriers;
 - b. improving infrastructure funding and financing to support urban growth; and
 - c. providing incentives for communities and councils to support growth (i.e. addressing the political economy of urban growth).
4. In respect of freeing up land for urban development, the GfHG plan includes proposals to:
 - a. introduce Housing Growth Targets for Tier 1 and 2 councils, requiring them to live-zone enough development capacity to meet 30 years of demand;
 - b. legislate to make the MDRS optional for councils, with the need for councils to ratify any use of the MDRS, including existing zones;
 - c. retain NPS-UD rules which requires councils to zone for six storeys in catchments proximate to rapid transit and strengthen these rules to enable mixed-use development; and
 - d. ensure central government has powers to step in and rezone land for housing where councils do not meet their Housing Growth Targets.
5. The options set out in this paper are framed in the context of the Coalition Government's commitments to these proposals.
6. Other aspects of the GfHG plan, including improving infrastructure funding and financing to support growth, and providing incentives for communities and councils to support growth, are being progressed on a slower track and do not form part of the options considered in this RIS. Other initiatives that form part of the Coalition Government's plan to fix the housing crisis such as RMA reform, providing for better social housing, improvements to rental regulation, and initiatives to improve competition and lower building costs in the residential construction sector, are also not considered. However, officials are working to align the proposals in this RIS with the wider GfHG plan and other related work programmes.

Overall context

7. New Zealand's housing market is one of the least affordable in the developed world, in large part due to insufficient housing supply. House prices have increased over time faster than incomes, with direct housing costs making up a higher proportion of

household incomes.³ Our cities are also not as well functioning as they could be, struggling to keep up with growth, and not playing the full role they could as dynamic places of opportunity for both people and businesses.

8. High house prices and a lack of supply have dampened growth in our cities, impacted productivity, and led to wide a range of other negative economic and social outcomes. This impacts a wide range of population groups, including those who do not own a home or have unmet housing need the most.
9. Delivering greater housing typology choice⁴, at a scale that meets demand and results in a moderation of house prices, requires well-functioning and competitive land, infrastructure, development, and construction markets.
10. While all of these markets are critical, a key barrier to increasing housing supply and enabling well-functioning urban environments has been an ongoing shortage of developable urban land (both 'up' and 'out') to support competitive urban land markets (i.e. by providing an abundance of development opportunities – reducing upward pressure on housing and land prices and removing regulatory barriers to housing supply). Evidence of constraints in land supply is shown in high land-price differentials between urban and non-urban zoned land, which are not explained by infrastructure costs alone. For example, the Infrastructure Commission found that each square metre of urban land at Auckland's fringe costs 4.4 times more than nearby rural land and evidence suggests this zoning premium doubled between 2011 and 2021.⁵ The Commission also found some evidence of these differentials increasing in other Tier 1 cities (excluding Christchurch), as well as Queenstown.
11. Overall, these constraints have resulted in housing supply not being as responsive to demand as it could be, and we are not seeing the mix of uses (such as commercial activities occurring in close proximity to residential areas) on the scale that might be expected to provide well-functioning urban environments.
12. A key driver of these constraints on development capacity has been the RMA, and the district plans put in place by councils that sit under it. District plans regulate land use and set out what development (including housing and commercial activity) is allowed. District plans have in general restricted the ability of the market to meet demand, motivated by factors such as:
 - a. community preferences to retain character, and opposition to additional density in existing urban areas;
 - b. council desires to carefully stage growth to manage infrastructure funding and financing constraints; and
 - c. differing views about the role freeing up development capacity plays in enabling more housing development.

Central Government has taken a range of actions since 2016 to free up land for development and support well-functioning urban environments

13. Governments have implemented a range of initiatives since 2016 to address restrictive planning constraints, require councils to enable additional development capacity for housing and business, and enable better functioning urban environments.

³ Since December 2003, the House Price Index has increased by 240% while median household income has only increased by 122% (<https://www.hud.govt.nz/stats-and-insights/change-in-housing-affordability-indicators/indices#tabset>).

⁴ For example, allowing not just stand-alone housing but also townhouses and apartments in a range of areas.

⁵ Urban land prices – a progress report, Infrastructure Commission, April 2023.

National Policy Statement on Urban Development Capacity 2016

14. The first steps to do this was via the introduction of the National Policy Statement on Urban Development Capacity 2016 (NPS-UDC). The NPS-UDC required councils to:
 - a. provide sufficient commercially feasible development capacity (plus a competitiveness margin) to meet demand for housing and business land over the short and medium term in district plans;
 - b. identify how development capacity will be provided in the medium-to-long-term, through Future Development Strategies (FDS); and
 - c. regularly monitor market indicators and price signals to ensure there is sufficient development capacity to meet demand.
15. The NPS-UDC focussed on requiring councils to provide an aggregate level of development capacity over 30 years, without directing where that capacity should be provided, and had a clear focus on directing councils to better understand their local development markets, and the impact regulations had on it.

National Policy Statement on Urban Development 2020

16. The NPS-UDC was replaced in 2020 by the NPS-UD. It went beyond the NPS-UDC by providing more specific direction to councils around where development capacity should be provided to support growth both “up and out”, and to support a wider range of outcomes that are consistent with well-functioning urban environments.
17. Major policies that support increased development capacity and well-functioning urban environments in the NPS-UD include:
 - a. **Well-functioning urban environments (Policy 1)** – planning decisions should contribute to well-functioning urban environments which enable a variety of homes that meet community needs and sites suitable for different business sectors; have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces by public or active transport; support competitive urban land markets, reduce greenhouse gas emissions, and are resilient to the likely current and future effects of climate change.
 - b. **Sufficient development capacity (Policy 2)** – councils must provide at least sufficient, feasible, and reasonably expected to be realised, development capacity to meet demand (plus a competitiveness margin) over the short, medium and long-term. How councils must meet these requirements for sufficient development capacity differs across these timeframes – including being able to count development capacity identified in operative and proposed plans, as well as identified through a Future Development Strategy. These requirements are similar to those under the NPS-UDC. Annex 3 explains these requirements in more detail.
 - c. **Intensification (Policy 3)** – council plans need to enable greater height and density in areas of high demand and access for housing and businesses where there is the greatest evidence of benefit (including in and around city , metropolitan, and town centres, and near rapid transit stops), unless a ‘qualifying matter’ makes this level of density inappropriate.
 - d. **Responsiveness (Policy 8)** – councils must have particular regard to private plan changes where they would add significantly to development capacity and would contribute to well-functioning urban environments, even if they were unanticipated or ‘out of sequence’.
 - e. **Car parking (Policy 11)** – councils are prohibited from requiring developers to provide car parking through their plans in most circumstances.

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

18. The Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (the Act) was passed in December 2021 to rapidly enable housing supply across New Zealand's main urban areas, and address housing affordability and choice. The Act:
 - a. Required Tier 1 councils (and Rotorua Lakes Council, a Tier 2 council, at the council's request) to implement the MDRS, and brought forward the timeframes for implementing the intensification provisions in the NPS-UD. The MDRS requires councils to enable up to three dwellings of up to three storeys on most residential sites across their urban area as of right without resource consent, unless a 'qualifying matter' makes this level of density inappropriate.
 - b. Required councils to use a new RMA planning process – the intensification streamlined planning process (ISPP) – to implement both the MDRS and NPS-UD intensification policies in their plans.
19. The RMA provides for the MDRS to have immediate legal effect from the point a council plan change begins (i.e. when it was notified) if an area is not subject to a qualifying matter. This differs from the usual approach in the RMA, given the policy intent was to rapidly enable a supply response. However, the MDRS does not yet apply in any part of Christchurch and Waipā district (which applied city-wide qualifying matters), and significant parts of other cities (due to more targeted qualifying matters being applied).

Councils are at different stages of implementing current requirements

20. Councils are at different stages in implementing the MDRS and NPS-UD intensification rules, which are being implemented as part of the same plan change process (the ISPP). Councils were required to publicly notify proposed plan changes to give effect to these requirements by August 2022, after which they were opened to consultation and consideration by Independent Hearings Panels (IHPs). IHP recommendations that are rejected by councils are referred to the Minister for the Environment (or their delegate) for a decision.
21. Twelve of the fifteen councils subject to the MDRS requirements have sought and received extensions to their required completion date. These extensions have been requested for a number of reasons, including the volume of work required, and a need to undertake additional flood mapping in response to natural disasters. Councils have also expressed uncertainty about the implementation of the policy due to election manifesto policy to make the MDRS optional. As at June 2024, 8 of the 15 councils that are required to implement the MDRS have done so, with 7 councils not yet having completed their plan changes. Remaining councils are expected to complete their intensification plan changes between the end of June 2024 and March 2026. Furthermore, 8 of the 10 Tier 2 councils have either completed or are currently undertaking a plan change process to implement the NPS-UD's intensification requirements.
22. Annex 2 sets out the progress of Tier 1 councils (and Rotorua) in implementing the MDRS and NPS-UD. Annex 4 sets out the development capacity councils estimate they are enabling, or will be enabling once plan changes are complete, under current requirements.

Mixed-use development

23. Mixed-use refers to a range of activities taking place in proximity to each other. For example, areas may contain a mix of housing, supermarkets, cafes, and offices.
24. To determine the extent to which mixed use is enabled⁶ in New Zealand, officials have undertaken a desktop analysis of district plans to better understand the extent to which a mix of activities are provided in different types of zones. Officials reviewed six Tier 1 district plans – Auckland City, Hamilton City, Tauranga City, Hutt City, Wellington City and Christchurch City. Officials looked at the activities enabled in a mixture of residential, commercial, and town/neighbourhood centre zones for each of these areas. Where there were proposed or draft district plans, these were used. Otherwise, the operative plan was used. While there is variation across councils:
 - a. Generally, commercial zones are relatively enabling of a range of residential, commercial and community activities, although there are often conditions on these activities and in many cases a resource consent may still be required.
 - b. Residential zones are generally much less enabling of commercial and community activities. For example, in most places reviewed, dairies are the only material commercial activity enabled in residential zones, and even these typically require resource consent. In some cities, such as Wellington, dairies are not enabled in residential zones. In some residential zones, community activities (such as childcare, community facilities, and places of worship) are not well-enabled.
25. Sometimes, mixed-use is addressed through ‘spot zoning’ – small patches of commercial zones in otherwise residential areas.⁷ Sometimes Māori special purpose zones are used which provide for a range of activities alongside Māori institutions, marae, and papakāinga. However, overall, zoning in and around the areas in which people live typically remains restrictive of other activities.
26. Many district plans take a ‘centres-first’ approach to enabling commercial activities – managing through a centres hierarchy which activities are allowed in which locations (for example, plans may allow only small shops and cafes in local suburban centres, with larger commercial activities required to locate in metropolitan or city centre zones). This is intended to ensure centres are vibrant and don’t “die” out, but can create barriers to competition and choice.

Central government has a range of powers to address non-compliance issues

27. The RMA provides ministers with a range of powers to support council compliance with their obligations. For example, the RMA provides the ability for the Minister for the Environment to:
 - a. require a council to provide information on the exercise of its powers and functions (RMA section 27);
 - b. investigate a council’s performance of its functions and powers and make subsequent recommendations (RMA section 24A);
 - c. direct councils to carry out a plan change (RMA section 25A);
 - d. direct councils to start a review of its plan (RMA section 25B); and
 - e. appoint a person to carry out a council’s functions (e.g. make a decision on a council plan change after information gathering into issues has been undertaken) (RMA section 25).

⁶ By which we mean treated as ‘permitted’, ‘controlled’ or ‘restricted discretionary’ under the RMA.

⁷ This is often the case for corner shops, cafes or dairies in older residential areas.

28. The Minister for the Environment exercises powers on behalf of the Government, working closely with Ministers that hold relevant portfolios, to develop, monitor and achieve compliance with government policy under the RMA.
29. Section 285F of the Local Government Act 2002 provides the Minister of Local Government with the ability to appoint a Commission to a local authority if the Minister considers there is a significant problem relating to the local authority and the local authority is unable or unwilling to address the problem.

What is the policy problem or opportunity?

30. The overarching problems and opportunities are that:
 - a. urban land-markets are not as competitive and responsive to market demand as they could be, ultimately resulting in high land and house prices and a shortage of housing supply; and
 - b. urban environments are not as well-functioning as they could be, including because housing is not as well connected to other businesses and services as possible.
31. A more specific problem definition, in conjunction with options description and analysis, is provided for each of the following policy proposals in subsequent sections:
 - a. Providing sufficient development capacity;
 - b. Medium Density Residential Standards;
 - c. Intensification requirements;
 - d. Mixed-use development; and
 - e. Monitoring and tools to achieve compliance.

Select engagement has occurred on options for a range of these issues

32. There are a wide range of stakeholders with an interest in these issues – including councils, existing residents in urban areas, iwi/Māori, as well as the general population. Officials have tested the issues and options covered in this RIS with the Housing Expert Advisory Group (six experts in economics and urban policy appointed to advise HUD). Targeted engagement was also carried out with some developers and a few members of the Local Government Steering Group facilitated by MfE on most of the issues, except the sufficiency of ministerial powers.
33. The main feedback and themes from this engagement included:
 - a. The Housing Expert Advisory Group generally favoured prescriptive direction to local government aimed at freeing up development capacity in a way that minimised local government discretion regarding where development capacity was provided. The Housing Expert Advisory Group also generally favoured closely monitoring price indicators and using these to inform supply responses (discussed further below).
 - b. Members of the Local Government Steering Group generally favoured less prescriptive direction that preserved local choice and the role of local councils in planning and place-making. They also stressed the importance of testing proposals with those that will need to implement them to ensure they are workable, and do not add unnecessary costs and disruption.
 - c. Developers generally stressed the need to integrate land use and infrastructure provision. They noted the benefits associated with the MDRS in unlocking capacity that could be easily developed, and noted the barriers to the delivery of housing that councils and resource consenting requirements could present.

Engagement with iwi/Māori

34. We are yet to engage with iwi/Māori on the GfHG programme. It will be important to do this to understand the perspectives of iwi/Māori on the proposals in this paper. Engagement will also be required to ensure that obligations to engage with post-settlement governance entities on relevant policy matters under Treaty settlements and related arrangements.
35. Treaty settlement legislation will often include commitments for iwi participation in RMA processes. Proposals in this paper will be implemented via changes to the RMA or underlying National Direction and therefore, engagement will be required with iwi/Māori. The extent and details of this engagement will be finalised as part of the integrated national direction programme.

What objectives are sought in relation to the policy problem?

36. As discussed above, the proposals in this RIS forms part of the Coalition Government's GfHG plan.
37. Officials consider that the primary objective of GfHG should be to *improve housing affordability and increase competition in urban land markets by significantly increasing the supply of developable land for housing, both inside and at the edge of our urban areas.*
38. Officials consider that the secondary objective of GfHG should be to *support well-functioning urban environments.* This secondary objective is the primary objective of the NPS-UD, and broadly covers matters such as supporting competitive land and development markets, improving access to employment, education and services, and assisting with emissions reduction.

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

39. Proposals have been assessed against a general set of criteria to evaluate the impacts of the proposals against the status quo:
 - a. Enabling housing – proposals are likely to support the primary objective of improving housing affordability and increase competition in urban land markets by significantly increasing the supply of developable land for housing, both inside and at the edge of our urban areas.
 - b. Functioning of urban environments – proposals are likely to support the secondary objective of supporting well-functioning urban environments.
 - c. Ease of implementation – proposals are feasible, practical, and can be implemented efficiently.
 - d. Clarity of obligations – regulation is as clear as possible for local government, developers, and other stakeholders.
 - e. Flexibility for councils and communities – proposals provide for the expression of local preferences.
40. Not all these criteria will be relevant to all issues and options. For example:
 - a. The functioning of urban environments criterion will not be relevant for Issue 1 (providing sufficient development capacity) as this issue is about total development capacity, not where that capacity is realised, or Issue 5 (monitoring and tools to achieve compliance).
 - b. The enabling housing criterion will not be relevant to Issue 4 (mixed-use development), which is concerned with enabling non-residential uses of land.
41. Trade-offs between the different criteria need to be considered in assessing the options. For example, more prescriptive options may provide increased certainty of outcomes in enabling housing and supporting well-functioning urban environments but

would reduce flexibility for councils to determine how to achieve the outcome in a way that reflected local circumstances and preferences. Preferred options may change depending on how highly local decision-making and level of prescription is weighted.

What scope will options be considered within?

42. This paper primarily considers proposals that relate to the freeing up of land for development elements of the Coalition Government's GfHG plan, as set out above. Options that would be explicitly contradictory to the Coalition Government's commitments have not been considered. However, no other options have been ruled out of scope.

Section 2: Issues and options analysis

- 43. For each of the six issues set out below, we:
 - a. describe the issue;
 - b. describe the options that have been considered;
 - c. analyse the options against the criteria set out above; and
 - d. where relevant, identify particular issues relating to options in the text below the analysis tables.
- 44. Options are analysed using the following key:

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

- 45. Some judgments have been made when determining overall assessments of options against the status quo with some criteria being given more weight, rather than adding the assessments against each criteria.

Issue 1 – Providing sufficient development capacity

Problem definition

46. As set out above and in Annex 3, Policy 2 of the NPS-UD requires councils to provide sufficient development capacity to meet short, medium, and long term demand, with a competitiveness margin on top of this. Development capacity is made up of both a regulatory component (i.e. what the rules in a district plan enable – capacity that is ‘live-zoned’), as well as an infrastructure component (recognising that particular infrastructure needs to be in place before housing can be built). Requirements across both components differ in the short, medium and long term.
47. Direction to provide sufficient development capacity, combined with the intensification policies of the NPS-UD (Policy 3) and the MDRS, is resulting in significant increases in development capacity in our main urban areas, contributing to more competitive urban land markets. However:
 - a. Under Policy 2 of the NPS-UD, the regulatory component (i.e. what is enabled in a district plan) must be in an operative plan in the short term (0-3 years), and in an operative or proposed plan in the medium term (3-10 years). Long term (10-30+ years) development capacity can be identified in a Future Development Strategy (a non-regulatory document). This means that plan changes may be required to bring forward, or live zone, development capacity identified to meet demand in the medium to long term, often only after infrastructure has been committed or put in place. For the long term in particular, development capacity being identified in a FDS doesn’t provide sufficient confidence that this capacity will be ‘live’ when a developer is ready to develop, and involves a plan change process, which adds cost and time.
 - b. While the current intensification policies under Policy 3 of the NPS-UD have the effect of adding to the total development capacity enabled, they have more impact in some urban areas than in others. For example, they will have less impact in urban areas without rapid transit, or in areas that do not define themselves as having a city or metropolitan centre, than in urban areas with these features. This is considered further under Issue 3, but is also relevant to Issue 1, as it means that Policy 3 cannot be relied on to materially supplement the total capacity being enabled in all urban areas.
 - c. Even where current requirements are collectively contributing to more competitive urban land markets, where councils chose to opt-out of the MDRS (see Issue 2), this could result in substantial reductions in development capacity without further interventions.
48. In short, it is not clear that current requirements, when combined with the proposal to make the MDRS optional, will sufficiently facilitate competitive urban land markets, which requires an abundance of development opportunities to shift market expectations of future supply and bring down the price of urban land.
49. In addition, the market, and central government, has insufficient certainty in the amount and location of development capacity enabled in council plans as a result of Policy 2 of the NPS-UD, due to council discretion and a lack of visibility around the inputs and assumptions councils used (discussed further below, and in Issues 3 and 5).

Options description

50. The following options will be assessed as options to address the issue of providing sufficient development capacity. These options are mutually exclusive.

Option	Description
Option 1A: Status quo	Councils are currently required to provide sufficient development capacity to meet demand over the short, medium and long term (see above). In effect, this means capacity signalled in the long-term, and in some cases the medium-term, requires a plan change process for it to become developable (or 'live-zoned').
Option 1B: Introduce Housing Growth Targets that require councils to provide for 30 years' worth of development capacity immediately	<p>Councils would be required to live zone (i.e. have enabled in an operative district plan) sufficient development capacity for at least 30 years of demand at any one time, rather than up to 10 years under the status quo.</p> <p>This capacity would need to all be commercially feasible for a developer to build at a profit.</p> <p>The status-quo infrastructure ready requirements would be retained, with minor amendments to reflect the Local Water Done Well policy and other funding sources for infrastructure, such as the Infrastructure Funding and Financing Act, development agreements, or central government funding sources.</p> <p>In practice, live zoning could be subject to 'infrastructure triggers' (only allowing development to take place once certain infrastructure is in place), but would not require any further plan changes.</p> <p>These changes would lift the regulatory constraint on development, but any infrastructure constraints would still remain.</p> <p>Further changes to the NPS-UD would be required to ensure that the evidence councils are using to determine what 30 years of growth is, is sufficiently robust and easy to review for central government to assess compliance with. For example, requirements would be more prescriptive than at present on matters such as demand projections and feasibility modelling requirements (for example, requiring councils to use 'high' population projections).</p>
Option 1C: Use price indicators in regulation as an automatic trigger for the release of development capacity	Instead of a quantity-based development capacity requirement, the NPS-UD would specify thresholds using a set of chosen price indicators (such as measures of urban fringe land price differentials). If these thresholds were breached, indicating that local land markets are not functioning well, councils would be automatically required to undertake a plan change process to provide additional development capacity.
Option 1D: Option 1B + price indicators may not deteriorate over time	Councils would need to comply with the development capacity requirements under Option 1B. In addition, councils would need to ensure that price indicators (such as urban fringe land price differentials) do not deteriorate (and ideally improve) over time. Unlike Option 1C, there would not be an automatic response if price indicators were deteriorating. However, central government would have access to a range of tools under the RMA to respond to deteriorating indicators, including the ability to require a plan change to be prepared as a way of releasing more development capacity.

Options analysis

Criterion	Option 1A: Status quo	Option 1B: Introduce Housing Growth Targets that require councils to live zone 30 years' worth of development capacity immediately	Option 1C: Use price indicators in regulation as an automatic trigger for the release of development capacity	Option 1D: Option 1B + price indicators may not deteriorate over time
Enabling housing	0	<p style="text-align: center;">+</p> <p>Some councils are likely to need to live-zone more development capacity than the status quo (exact impact depends on detailed design).</p>	<p style="text-align: center;">+</p> <p>Some councils are likely to need to live-zone more development capacity in response to price indicators (exact impact depends on monitoring and detailed design).</p>	<p style="text-align: center;">++</p> <p>Some councils are likely to need to live-zone more development capacity than status quo as a result of both Targets and price indicators (exact impact depends on monitoring and detailed design).</p>
Ease of implementation	0	<p style="text-align: center;">-</p> <p>Some councils will be required to undertake large amounts of work to 'live zone' land in their plans. May require councils to undertake a plan change to meet Targets.</p>	<p style="text-align: center;">--</p> <p>Significant central government resourcing needed for policy design and implementation. Some resource required for local government to develop capabilities in price efficiency indicators. Likely to result in significant contestability over the methodologies for determining the indicators themselves and how to interpret them. May require councils to undertake a plan change.</p>	<p style="text-align: center;">-</p> <p>Some central government resourcing needed for policy design and implementation. Some resource required for local government to develop capabilities in price efficiency indicators. May result in contestability over the methodologies for determining the indicators themselves and how to interpret them. May require councils to undertake a plan change.</p>
Clarity of obligations	0	<p style="text-align: center;">+</p> <p>Obligations on councils will be clearly outlined in the NPS-UD, with more prescription in relation to modelling capacity.</p>	<p style="text-align: center;">--</p> <p>Councils would have no certainty on how much development capacity they need to provide, and whether this would improve the indicators.</p>	<p style="text-align: center;">0</p> <p>Councils would have clear obligations to meet their Target (more so than status quo), but uncertainty around the potential impacts of price indicators.</p>
Flexibility for councils	0	<p style="text-align: center;">-</p> <p>Councils would have less discretion to phase in live-zoned capacity.</p>	<p style="text-align: center;">--</p> <p>Councils would have less discretion on how much capacity to provide.</p>	<p style="text-align: center;">-</p> <p>Councils would have less discretion to phase in live-zoned capacity, and less discretion on how much capacity to provide.</p>
Overall assessment	0	<p style="text-align: center;">+/-</p>	<p style="text-align: center;">--</p>	<p style="text-align: center;">+/-</p>

Discussion

51. Under the status-quo's development capacity provision requirements, Tier 1 and 2 councils have enabled substantially more development capacity since 2020 (or – in some instances – are expected to do so shortly). Officials have not finalised the detailed design of Housing Growth Targets or required councils to undertake bespoke modelling of capacity yet, so it is difficult to state with confidence how much additional development capacity councils would be required to release under Options 1B or 1D. Options 1B and 1D would require more development capacity to be live-zoned in the short term than the status-quo requirements under Policy 2 of the NPS-UD (which allows for some development capacity to be signalled in an FDS). However, when current requirements under not just Policy 2 of the NPS-UD, but also Policy 3 and the MDRS are taken into account, Options 1B and 1D are unlikely to result in substantially more capacity being enabled relative to the status quo.
52. Across all options (including the status-quo), infrastructure will remain a key barrier to housing supply. While planning regulatory barriers to housing supply will largely be addressed through the proposals in this RIS, infrastructure needed to service this development must still be funded and delivered. As detailed above, councils will be able to address immediate impacts associated with infrastructure constraints through the use of 'infrastructure triggers' – councils will need to enable capacity in their operative district plans, but will not need to allow development until infrastructure is in place. As set out earlier in this RIS, broader issues related to infrastructure funding and financing are being progressed as part of the wider GfHG package of work that sits beyond the scope of this RIS.
53. The definition of development capacity under Options 1A and 1B includes 'feasible' (see Annex 3 for an overview of current requirements). While the spatial extent of zoning and the associated regulations on development influence the feasibility of a given development, factors outside of a council's control (local incomes, construction costs, interest rates, etc.) have a significant influence on a development's feasibility. In some cases, a council may not be able to comply with development capacity requirements due to these other factors, despite their best efforts to live-zone sufficient development capacity.
54. Options 1A and 1B mostly involve the use of well-established quantity-based requirements and concepts and are easiest for councils to implement. However, while requirements are planned to be tightened up under Option 1B, even with these changes:
 - a. Councils may understate demand for housing, or overstate feasible capacity, and it may not always be apparent when they have done this (Options addressing Issue 5 are intended to address this in part).
 - b. The quantity of development capacity that councils are required to provide may not be sufficient to shift market expectations and reduce land, and ultimately house, prices.
 - c. Markets are dynamic in a way that is not fully factored into quantity-based approaches. For example, demand may increase in areas with lower house prices and reduce in markets with higher prices – this essentially makes the requirements to provide development capacity more stringent for councils with more affordable housing, and more lenient for councils with less affordable housing.
55. For these reasons, officials see merit in the use of price indicators as a supplement to the use of quantity-based requirements. However, the use of price indicators under Options 1C and (to a lesser extent) 1D would present implementation challenges for the following reasons:
 - a. There is currently a lack of consensus around which set of price indicators would be most appropriate to use. If a set of indicators were agreed on,

substantial technical work would be required to determine the threshold to trigger intervention, and how much additional development capacity would need to be provided. In addition, careful consideration would be needed to ensure conclusions drawn about the functioning of a given land market from any chosen indicators are robust and accurate (i.e. ensuring that a lack of sufficient development capacity, rather than other factors, is the direct cause of poor indicators).

- b. Some indicators that would likely be included, such as urban fringe land price differentials, may not be suitable for use across all councils (for example, some councils have little to no rural land to produce a sufficiently robust urban fringe land price differential).
56. Furthermore, without significantly more detailed policy work, we cannot determine what the impacts of price indicators might be on councils and how much extra development capacity they would need to provide.
 57. On balance HUD prefers Option 1D. Option 1D balances the benefits associated with taking a quantity-based approach that improves on current requirements, with the benefits associated with having price indicators as a 'check' on development capacity requirements. We consider Option 1D to be much more implementable than Option 1C as it would preserve discretion for central government to consider the context behind price indicators rather than trigger an automatic and blunt response.
 58. MfE conditionally supports Option 1D for the reasons noted in the paragraph above. However, further work is required to develop the policy, and in particular the use of indicators, to a level that the requirements and response are clear, do not add unnecessary complexity, and the response is in relation to something that councils can control.

Issue 2 – Medium Density Residential Standards

Problem definition

59. The introduction of the MDRS has rapidly enabled more development capacity across our main urban areas. In particular, the MDRS were designed to support the private sector to scale up the delivery of three storey walk-ups and similar building types. These building types have grown in popularity across our main urban areas and the development sector can scale up to deliver these without needing to increase capability substantially. To help meet this objective, a more prescriptive approach was used, which has overridden councils' and local residents' ability to choose exactly how their city would change over time.
60. The introduction of the MDRS has led to a wide range of stakeholder views and reactions. Some stakeholders have positively welcomed the MDRS as it increases choice about what can be developed on a residential site, and given it reduces the cost of development by removing requirements to seek a resource consent (including for extensions/renovations to existing properties).
61. However, a range of concerns and opposition has been raised by stakeholders, primarily councils, existing resident and some community groups. Main concerns include that the MDRS negatively impacts on:
 - a. on councils' ability to proactively plan, fund/finance and provide for water, transport, and community facilities infrastructure to support growth (especially trunk water infrastructure), particularly in the short-term. Some councils have used qualifying matters to manage these impacts, which has in turn highlighted councils' infrastructure deficits.
 - b. on private amenity of existing homeowners, including by limiting sunlight access, views, and neighbourhood character.

Options description

62. The following options will be assessed as options to address the issue of the MDRS.

Option	Description
Option 2A: Status quo	<p>There would be no legislative change – the MDRS would remain mandatory as the baseline level of development allowed as of right in all relevant residential zones for Tier 1 councils and Rotorua Lakes District Council. Those councils that have incorporated the MDRS would not be required to take further action. Remaining councils required to incorporate the MDRS but that have not completed the necessary plan processes would be required to complete these processes.</p> <p>While there would be no change in the policy, there would be an increase in the development capacity enabled between now and March 2026 as remaining councils finish plan changes to implement the MDRS and the intensification requirements in the NPS-UD.</p>
Option 2B: Amend the RMA to enable councils to opt out of the MDRS after a ratification vote via a plan change process	<p>All councils currently required to implement the MDRS would no longer be required to incorporate the MDRS in all relevant residential zones, however there would still be requirements to implement the intensification policies in the NPS-UD through the ISPP process. There would be no conditions on the ability to opt out after a ratification vote. Other policies within the NPS-UD would still need to be implemented (such as Housing Growth Targets) in line with direction in that instrument.</p> <p>Councils that have already incorporated the MDRS into their district plans, but want to opt-out of the MDRS, would have to undertake a</p>

	<p>new plan change using either the regular Part 1, Schedule 1 plan change process, or apply to use the Streamlined Planning Process (which has no appeals because the Minister for the Environment, or their delegate, is the final decision-maker). Councils part way through plan changes to incorporate the MDRS would only need to complete the aspects of their plan changes that implemented the NPS-UD intensification policies, and would follow a bespoke process for removing the MDRS.</p>
<p>Option 2C: Amend the RMA to enable councils to opt out of the MDRS via the Streamlined Planning Process if they:</p> <ul style="list-style-type: none"> • demonstrate compliance with the Housing Growth Targets (see Issue 1 above); <u>and</u> • have no net loss of development capacity from what would be enabled by having incorporated the MDRS and NPS-UD. 	<p>Councils would determine whether they wanted to opt out of the MDRS with a ratification vote. If they chose to remove or alter the MDRS, they would have to demonstrate compliance with the Housing Growth Targets and show that opting out would result in no net loss of development capacity relative to current requirements (i.e. if councils would be enabling development capacity to meet 40 years of demand under current NPS-UD and MDRS requirements, then those opting out of the MDRS would still need to provide 40 years of development capacity across their urban areas, rather than the 30 years of development capacity if they just needed to comply with the Housing Growth Targets).</p> <p>For councils choosing to remove or alter the MDRS:</p> <ul style="list-style-type: none"> • Councils that had already implemented the MDRS would need to use the Streamlined Planning Process to remove the MDRS and implement the other proposals in this RIS, so as to provide Ministerial oversight to ensure that councils are not reducing development capacity relative to status quo requirements.⁸ • A tailored approach would be taken for the councils that have not yet completed their plan changes to implement the MDRS, reflecting each council's differing circumstances. This would seek to balance avoiding unnecessary work for councils that do not want to implement the MDRS, while seeking to get the NPS-UD in place as soon as possible.

⁸ Officials considered whether another type of plan change process could be used to enable councils to opt out of the MDRS. However, MfE considered that the Streamlined Planning Process is the process most likely to provide the necessary flexibility for councils, while still being efficient. Other types of plan changes are not assessed in this analysis as MfE considers they would either add unduly legislative complexity or not achieve the desired outcomes.

Options analysis

Criterion	Option 2A: Status quo	Option 2B: Amend the RMA to enable councils to opt out of the MDRS after a ratification vote via a plan change process.	Option 2C: Amend the RMA to enable councils to opt out of the MDRS after a ratification vote, but only if they can prove compliance with Housing Growth Targets and no net loss capacity vs the development capacity of the MDRS/NPS-UD.
Enabling Housing	0	-- Likely to result in a reduction in development capacity even after implementing the Housing Growth Targets.	0 No net loss of development capacity compared to the status quo.
Functioning of urban environments	0	0 Uncertainty regarding impact on development patterns.	0 Uncertainty regarding impact on development patterns.
Ease of implementation	0	- Would require councils to undertake a plan change or variation, which would come with additional cost. Process to opt out would be particularly complex for councils that hadn't completed intensification plan changes.	-- Complex to determine compliance with Housing Growth Targets and whether no net loss of development capacity would be achieved. Would require a plan change or variation. Process to opt out would be particularly complex for councils that hadn't completed intensification plan changes.
Clarity of obligations	0	-- Reduced certainty and confidence for developers on what rules and regulations will replace the MDRS until a plan change is completed. Uncertainty regarding existing development rights in areas where the MDRS is removed.	- Councils know capacity requirements are not changing if they already provide more than 30 years of development capacity. However, reduced certainty and confidence for developers on what rules and regulations will replace the MDRS until a plan change is completed. Uncertainty regarding existing development rights in areas where the MDRS is removed.
Flexibility for councils	0	++ Councils would have the choice whether to opt out of the MDRS, and some would have discretion to reduce the amount of development capacity provided, as well as the choice about what plan change process to use to do so.	+ Councils would have more flexibility in how they provide development capacity in their urban environments, but not over the total quantum of development capacity provided.
Overall assessment	0	--	-

Discussion

63. The MDRS enables a significant amount of development capacity which supports the objective of increasing the supply of developable land. If councils are enabled to opt out and choose to do so they will need to make a change to their district plan. These plan changes will generate costs for councils, rate payers, and developers, and increase uncertainty in the system until the changes are completed.
64. Placing some conditions on the ability of councils to opt out of the MDRS supports the objective of increasing the supply of developable land. However, determining compliance with the Housing Growth Targets, which are technically challenging, will take time and require additional resourcing from councils.
65. Options 2B and 2C include the requirement to hold a ratification vote, which would be required by legislation. If the MDRS is not ratified, councils would have to start work to progress a plan change to remove or alter the MDRS.
66. Agencies have assessed options for how the MDRS could be made optional for councils given the Coalition Government's commitment. HUD and MfE's strong preference is for Option 2C rather than 2B. Option 2C:
 - a. ensures that there will be no temporary drop in development capacity if the MDRS is made optional before Housing Growth Targets are implemented; and
 - b. ensures that there will be no net loss in development capacity relative to status quo requirements for councils that may already be providing more than 30 years of development capacity, including by providing more Ministerial oversight over the plan change process.
67. Under Option 2C, councils that opt out of the MDRS would still have to enable the same amount of development capacity as under current requirements. However, unlike the MDRS, not all of the capacity would necessarily need to be 'permitted' as of right without the need for a resource consent. Instead, as with the NPS-UD at present, capacity would likely need to be treated as 'permitted', 'controlled' or 'restricted discretionary' activities under the RMA – the latter two requiring resource consent. This means that the process for realising development capacity could be more time consuming and costly relative to the status quo.

Issue 3 – Intensification

Problem definition

68. The intensification policies in the NPS-UD (Policy 3) were introduced to support cities to grow 'up' in areas that made the most sense – essentially areas with high land prices close to city and metropolitan centres, where people work, community centres, and around high-frequency transit stops.
69. Policy 3 of the NPS-UD directs minimum building heights and densities that must be enabled in particular locations (such as city and metropolitan centre zones) and within walkable catchments of centre zones and existing and planned rapid transit stops. These policies are designed to enable density in locations where people want to live, and support well-functioning urban environments; however, there are opportunities to strengthen them to:
- better achieve the original policy intent of the NPS-UD; and
 - materially expand the areas subject to NPS-UD's intensification policies to compensate for some of the density that may be lost as a result of making the MDRS optional.
70. There have also been a range of issues that have arisen with the implementation of the NPS-UD, which include:
- The definition of rapid transit is narrow, effectively only applying to Auckland and Greater Wellington's metropolitan rail networks and the Northern Busway in Auckland. This limits the extent to which the NPS-UD enables intensification in areas well-served by public transport. Some sectors of the community have resisted the identification of rapid transit services as such because of the requirement to enable intensification around associated rapid transit stops. This has led to unnecessary debate around whether particular train lines meet the rapid transit definition.
 - The different approaches taken by councils to determine walkable catchments has led to costs and inefficiencies in the plan change process. Councils' and submitters' time and resources have been spent considering and debating the meaning of walkability and how to apply it to local circumstances.⁹ Discretion in setting walkable catchments also provides scope for councils to limit the extent of upzoning provided for by setting small catchments.
 - Qualifying matters that are not specifically listed in the RMA have been applied more extensively than anticipated. These unlisted qualifying matters include special character. Extensive use of unlisted qualifying matters is limiting development capacity in areas where high density developments are most likely to be viable.¹⁰ In some cases, councils are failing to meet the requirements to justify the use of these unlisted qualifying matters.¹¹
71. While less prescriptive than the MDRS, the NPS-UD intensification policies also limit councils' and local residents' ability to choose exactly how their city would change over time. Existing homeowners have expressed concerns about amenity impacts from these policies, including limiting sunlight access, views, and neighbourhood character.

⁹ For example, the Wellington District plan change process changed the recommended or proposed walkable catchment around some Kapiti line train stations and the central city at least five times.

¹⁰ For example, around 16,000 (reduced from 21,000 in the operative unitary plan) properties in Auckland are proposed to be subject to a special character qualifying matter under Plan Change 78. Auckland is yet to go through its IHP process, which may materially impact on the outcome.

¹¹ For example, HUD submitted that there was limited evidence that the notified Auckland Council and Wellington City Council plan changes took into account the relevant costs of their character restrictions, including impacts on development capacity, accessibility and well-functioning urban environments.

Options description

72. The following options will be assessed as options to address the issue of intensification requirements. These options are mutually exclusive.

Option	Description
Option 3A: Status quo	<p>There would be no change to the intensification requirements of the NPS-UD. Existing intensification requirements in policy 3 of the NPS-UD require:</p> <ul style="list-style-type: none"> • in city centre zones: building heights and density to realise as much development capacity as possible (Policy 3(a)); • in metropolitan centre zones (Policy 3(b)), and within a walkable catchment of city and metropolitan centre zones, and existing and planned rapid transit stops (Policy 3(c)): building heights of at least 6 storeys; and • within and adjacent to neighbourhood, local, and town centre zones: building heights and density commensurate with the level of commercial activity and community services (Policy 3(d)). <p>While there would be no change to policies, there would be significant changes in development capacity enabled by the NPS-UD intensification policies expected between now and March 2026 as remaining councils subject to the intensification requirements complete their plan changes.</p>
Option 3B: Refinements to existing NPS-UD intensification policies	<p>Refinements are made to the NPS-UD intensification policies to support its implementation and workability. Specifically:</p> <ul style="list-style-type: none"> • Restoring the scope of Policy 3(d) to its pre-MDRS position of applying in all areas of Tier 1 urban environments (not just in and around town, local, and neighbourhood centres, as at present).¹² • Changing the definition of rapid transit, to address ambiguity in the current definition. This may involve listing the metropolitan train lines and busways that trigger upzoning (while future-proofing for new lines and busways that are developed). However, further work is required on the specific drafting of the definition. • Clarifying that decision-makers must explicitly consider the process and evidentiary requirements in their decisions to use an unlisted qualifying matter to reduce density.
Option 3C: 3B + Extensions to the NPS-UD intensification requirements	<p>Option 3B, plus extensions to the NPS-UD intensification requirements that still provide for some discretion in local decision making. Specifically:</p> <ul style="list-style-type: none"> • Requiring councils to enable intensification around strategic transport corridors in addition to rapid transit. Councils would be responsible for determining these corridors, subject to criteria set by central government. • Specifying minimum catchment sizes for the purposes of determining the spatial extent of the intensification policies. Minimum catchment sizes would be based on the level of service provided by the type of centre or node (for example, there would be larger catchment sizes for city and metropolitan centres than around rapid transit stops).

¹² The scope of policy 3(d) was narrowed alongside the introduction of the MDRS as the MDRS arguably made policy 3(d) redundant outside of centre zones. In making the MDRS optional, this rationale no longer applies.

	<ul style="list-style-type: none"> • Requiring that the loss of development capacity through use of an unlisted qualifying matter (especially special character) is offset by a direct and corresponding increase in development capacity elsewhere.
<p>Option 3D: 3B + Prescriptive extensions to the NPS-UD intensification requirements</p>	<p>Option 3B plus prescriptive extensions to the NPS-UD intensification requirements that limit local discretion. Specifically:</p> <ul style="list-style-type: none"> • Requiring councils to upzone around public transit stops (in addition to rapid transit stops) based on the frequency of services at that stop. For example, requiring councils to enable 6 storey development within a walkable catchment of stops with average daytime frequency of 10 minutes or better. • Banning the use of special character (and any equivalent concept) as a qualifying matter. This would mean councils could not use special character as a reason to reduce the level of upzoning provided for by the NPS-UD. • Specifying minimum catchment sizes for the purposes of determining the spatial extent of the intensification policies (same as Option 3C).

Options analysis

Criterion	Option 3A: Status quo	Option 3B: Refinements to existing intensification policies	Option 3C: Extensions to the NPS-UD intensification requirements	Option 3D: Prescriptive extensions to the NPS-UD intensification requirements
Enabling Housing	0	0 Negligible impact on the supply of developable land.	++ Increase to the supply of developable land.	++ Significant increase to the supply of developable land.
Functioning of urban environments	0	+ Effectiveness at delivering on objectives would be minor but positive.	++ Likely improvements to well-functioning urban environments.	+/- Some positive impacts from more intensification, but may be some minor negative impacts on functioning of urban land markets due to blunt approach to upzoning. For example, setting intensification requirements around public transport stops based on service frequency could have negative impacts for transit networks.
Ease of implementation	0	+ Refinements are simple to develop and would be easier to implement than the status quo. However, a plan change would be required.	- Work required for central government to design the new rules. A plan change would be required to implement the new rules. Flexibility provided to councils would reduce ease of implementation. Council offsetting use of non-listed qualifying matters may be particularly challenging to enforce.	0 Work would be required for central government to design the new rules. A plan change would be required to implement the new rules but because they would be more prescriptive, the extensions would be easier to implement for councils.
Clarity of obligations	0	+ Minor improvement from clarifying definition of rapid transit.	+ Moderate increase in certainty through setting minimum catchment sizes and providing more direction on where to allocate development capacity.	++ More prescriptive rules provide increased certainty of obligations.
Flexibility for councils	0	0 Comparable level of flexibility for councils as the status quo.	- Moderate reduction in flexibility. Councils would be required to meet new requirements but retain flexibility in implementing them.	-- Significant reduction in flexibility from banning special character and prescriptive upzoning requirements around transit stops.
Overall assessment	0	+	++	+

Discussion

73. The key trade-off between these options is the amount of housing enabled and the level of discretion provided to councils. More prescriptive options provide more certainty of outcome in enabling housing but would limit council's ability to respond to local circumstances. While Options 3B and 3C could have the same rating, Option 3C has been rated higher as greater weight has been given to the enabling housing and functioning of urban environments criteria, which Option 3C is more effective at meeting.
74. Relative to the status quo, all three options would, to different extents, be effective in delivering on the objectives set out above.
75. Option 3B would likely have a negligible impact on increasing development capacity. However, refinements, particularly restoring the scope of policy 3(d) to its pre-MDRS position, would nevertheless better support well-functioning urban environments than the status quo through:
 - a. providing direction to councils on how to allocate development capacity across their urban areas; and
 - b. supporting integration of transport and land-use.
76. Extensions to the intensification requirements of the NPS-UD (Option 3C) would be very effective in both enabling housing and supporting well-functioning urban environments. In particular:
 - a. Directing councils to upzone around strategic transit corridors would increase development capacity in areas well-served by public transport; however, the discretion provided to councils in identifying these corridors could limit the amount of upzoning provided for.
 - b. Setting minimum catchment sizes could, depending on the sizes of the catchments, increase the level of upzoning provided for around city and metropolitan centre zones and rapid transit stops.
 - c. Requiring that the loss of development capacity through use of an unlisted qualifying matter (including special character) is offset by a direct and corresponding increase in development capacity elsewhere would increase development capacity provided. However, the impact on overall development capacity may be limited depending on how councils interpret this requirement.
77. Relative to Option 3C, prescriptive extensions to the intensification requirements of the NPS-UD (Option 3D) would likely lead to a larger increase in the supply of developable land owing to less discretion around where upzoning is required. However, Option 3D may negatively impact the functioning urban environments as the more prescriptive requirements to upzone around public transport could have negative impacts, including:
 - a. basing intensification requirements around current routes and levels of service could create difficulties for transit operators in making future changes to optimise their networks;
 - b. if networks change, an area could be upzoned (at least until a future plan change) despite no longer being well-served by public transport; and
 - c. perverse incentives for communities to resist increased public transport services to prevent an area from being upzoned.
78. More local discretion generally supports the participation of iwi and hapū. However, less local discretion may be mitigated by ensuring the benefits of the policy initiatives are evenly distributed.

79. On balance, HUD prefer Option 3C (alongside Option 3B). While not enabling as much developable land as Option 3D, it would better support well-functioning urban land markets and would provide more flexibility for councils.
80. MfE also prefers Option 3C (alongside Option 3B), although note that this will require plan changes to implement, and in developing policy for implementation timeframes, officials will need to be mindful of the wider impact of proposed RMA changes through the national direction programme, and the cumulative impact on councils.

Issue 4 – Mixed-use development

Problem definition

81. There are many benefits from having a mix of land-uses or activities proximate to each other:
 - a. making active transit (including walking and cycling) more viable (reducing congestion and car dependency, and emissions from private vehicle use); and emissions from private vehicle use);
 - b. safer, more liveable, and more attractive neighbourhoods;
 - c. increasing social connectedness;
 - d. providing space for cultural institutions to be closer to their communities; and
 - e. efficiency and competition benefits.¹³
82. The benefits of mixed-use come with challenges, primarily managing the interactions between different uses that could create nuisance factors for others (such as from housing being located next to activities that generate noise or emissions such as hospitality and factories) or where the proximity of certain activities may be culturally inappropriate. This means that there is still a case for:
 - a. separating some land uses; and
 - b. managing the effects of activities where different uses are allowed to mix.
83. As discussed in Section 1, based on our review of district plans, mixed use is generally provided for in commercial areas, but to a much lesser extent in residential areas. As such, while there is a need to ensure that councils still have scope to prevent and manage the interaction of conflicting activities, officials consider that there is scope for councils to be more enabling of a mix of uses (particularly for small to medium sized activities) than at present. New Zealand's approach to mixed use zoning differs to that of many European countries, which effectively enable a mix of uses by default.¹⁴
84. While district plans can put in place barriers to mixed use development, other factors that can influence whether mixed-use development occurs in practice include:
 - a. the profitability of undertaking new developments or start new businesses;
 - b. preferences for 'big box' shopping versus more localised smaller-scale retail; and
 - c. how easy it is to travel to city and metropolitan centres versus shopping locally.
85. There can be particular challenges when seeking to undertake 'vertical mixed use' development (multiple uses in a multi-storey building). This includes added complexity of insurance for multiple uses, building ownership and multiple titles, fire ratings for building materials between different areas of different use, and the need for multiple building entrances and lift cores.
86. Nevertheless, New Zealand's approach to separation of land-uses risks undermining the benefits that can be associated with mixed use, as discussed above.

¹³ Providing more flexibility regarding land use allows land to be allocated to its highest value use and reduces the risk of land use regulation serving as a barrier to entry to firms looking to enter the market. For example, the Commerce Commission's 2022 retail grocery market study identified the planning system as a key barrier to competition in the retail grocery sector, because it heavily restricted the land available for supermarket development. The Commission recommended greater mixed-use zoning as one of the ways to address this issue.

¹⁴ For example, see Hirt, S. (2012). Mixed Use by Default: How the Europeans (Don't) Zone. *Journal of Planning Literature* 27(4), 375-393.

Opportunities to improve outcomes for Māori via mixed use zoning

87. Māori are more likely than other communities to live in urban areas with fewer community and commercial services. Travelling to other locations incurs additional household costs. Creating more opportunities to improve access for Māori communities to appropriate mixed uses may support overall wellbeing for Māori.
88. Providing greater direction on mixed use may also provide opportunities to guide improvement to the use of, and rules within, specific Māori special purpose zones thereby supporting positive outcomes for Māori. Local application of mixed-use policy should be informed by Māori and better evidence on the needs of Māori for services, community facilities, and business.

Options description

89. The following options will be assessed as options to address the issue of mixed-use zoning. These options are mutually exclusive.

Option	Description
Option 4A: Status quo	No changes would be made to the RMA or the NPS-UD in relation to mixed-use zoning requirements. Councils would retain discretion to enable a mix of uses across their residential zones.
Option 4B: Provide high-level direction on mixed-use	<p>High-level direction would be provided to councils on the mixed-use outcome that they need to achieve, without prescribing the detail of what that should look like.</p> <p>There would be two components to this direction:</p> <ul style="list-style-type: none"> • a generalised requirement to enable a greater mix of activities to support well-functioning urban environments, across their urban areas; and • a requirement to ensure that in intensification areas (e.g. in and around city, metropolitan, town and local centres, and rapid transit stops), councils must enable a range of activities, including residential, commercial services, retail, and community facilities. <p>Councils would retain the ability to be more enabling of mixed-use zoning than the relevant national direction requirements.</p>
Option 4C: Option 4B plus specific direction on mixed-use	<p>High-level direction would be provided to councils on the mixed-use outcome that they need to achieve, and specific direction on the activities that must be enabled to achieve this.</p> <p>There would likely be three components to this direction:</p> <ul style="list-style-type: none"> • a generalised requirement to enable a greater mix of activities to support well-functioning urban environments, across their urban areas (same as Option 4B); • a specific requirement to enable at least a specified set of small-scale activities (with associated definitions) with low expected externalities across their urban areas (e.g. convenience stores and cafes); • a specific requirement to enable at least a specified set of small-to-mid scale activities with low-to-moderate expected externalities within intensification areas (e.g. convenience stores, metro-style supermarkets, retail, cafes, restaurants, and offices). <p>The direction could also prescribe whether and how a resource consent is needed (activity status), and any associated</p>

	<p>conditions (e.g. stopping councils from overly restricting opening hours).</p> <p>Councils would retain the ability to be more enabling of mixed-use zoning than the relevant national direction requirements.</p>
<p>Option 4D: Develop a full suite of mixed-use zone provisions</p>	<p>Detailed direction would be provided to councils to enable a greater mix of activities in relevant intensification areas. This could include the full suite of provisions of one or more mixed-use zones, including rules for every activity that is enabled or prohibited, rules around building heights and densities within these zones, and a list of conditions. This could be achieved through the national planning standards, amendments to relevant objectives and policies in the NPS-UD, and/or national environmental standards.</p>

Options analysis

Criterion	Option 4A: Status quo	Option 4B: Provide high-level direction on mixed-use	Option 4C: Option 4B plus specific direction on mixed-use	Option 4D: Develop a full suite of mixed-use zone provisions
Functioning of urban environments	0	0/+ Could improve well-functioning urban environments if implemented appropriately. May result in less mixed use than anticipated. Particular activities (such as metro-supermarkets) may not be enabled as councils would have discretion about which activities are enabled.	+ Could improve well-functioning urban environments if implemented appropriately. Additional direction on mix of activities would support well-functioning urban environments.	0/+ Could improve well-functioning urban environments if implemented appropriately. Potential uncertainty with how implementation would affect existing urban areas and the impact on existing mixed-use activities.
Ease of implementation	0	- Would require a plan change to implement.	- Would require moderate resourcing requirements from central government. Would require a plan change to implement. Council planning frameworks are complex so more prescriptive direction would need to be workable and compatible with existing planning frameworks. Implementation risk if list of activities to be enabled is inappropriate for a particular area.	-- Would require very high resourcing requirements from central government, would be technically difficult to draft (i.e. detailed direction would be increasingly complex compared to the status quo). Would likely require a plan change to implement depending on type of direction.
Clarity of obligations	0	+ Would provide clarity on the outcome that needs to be achieved via high level direction to guide local planning framework.	+ Would provide more clarity and certainty on the changes required to RMA plans through prescriptive direction on relevant activities. Implementation risk if the non-exhaustive list of activities to be enabled is interpreted by councils as a 'target' and not as starting point and an opportunity to be more enabling. Potentially arbitrary judgements about which activities should be enabled where.	0 Provides most prescriptive suite of obligations since planning framework would be fully prescribed, but risks unintended consequences of not providing for certain activities, resulting in regulatory ambiguity.
Flexibility for councils	0	0/+ Councils determine the mix of activities to achieve the outcome.	- Councils have less flexibility to determine the mix of activities to achieve the outcome.	-- Councils would not have flexibility to determine the outcome or mix of activities with their communities as full suite of provisions would be provided (e.g. via a national planning standard or national environmental standard).

Discussion

90. It is possible that directing councils to be more enabling of mixed use will not result in substantial changes from the status quo. Businesses already have good incentives to locate in high-accessibility and/or high-density areas rather than poorly connected locations. Mixed use is also most likely to be economically viable in these areas, so enabling mixed-use outside of existing commercial centres may not result in significant change. However, there is also a case for enabling more flexibility, to allow businesses and community services to have more choice about where to locate (even if in many cases this will be in existing centres). The case for being more enabling of mixed use in more places is also strengthened by increasing intensification (including as a result of national direction), which is likely to increase demand for both commercial and community services in more places, and make these services more viable.
91. A key trade-off between options is the level of prescription (which could provide more confidence that councils will enable specified activities), versus local choice (enabling district plans to reflect local circumstances and community preferences). The level of prescription would likely have cumulative impacts on urban areas and local decision-making.
92. Council zoning frameworks are complex, therefore the more prescriptive options would also likely need to be increasingly complex to ensure the direction is workable and compatible with existing local planning frameworks.
93. More local discretion generally supports the participation of iwi and hapū. However, less local discretion can be mitigated by ensuring benefits of the policy initiatives are evenly distributed.
94. Depending on how highly local decision-making and level of prescription is weighted, the preferred option may change between Options 4B and 4C.
95. HUD recommends Option 4C on the basis it is likely to be more effective than Option 4B at achieving the objective of supporting well-functioning urban environments, and HUD considers that these benefits outweigh the reduced flexibility for councils. HUD does not recommend Option 4D, as while it is potentially the most effective at achieving the outcomes sought, this would be outweighed by a lack of ease of implementation and the complete loss of flexibility for councils.
96. MfE prefers Option 4B as it provides strong direction on the outcome that councils need to address, and provides for local discretion in *how* to achieve it. This enables councils to respond to local circumstances and reflect local preferences in achieving the outcome prescribed. MfE considers that it will be difficult to develop Option 4C in a way that can enable change in activities over time.

Issue 5 – Monitoring and tools to achieve compliance

Problem definition

The current approach to Housing and Business Development Capacity Assessments may present issues for setting Housing Growth Targets under the GfHG proposals ...

97. HBAs are the key mechanism by which:
 - a. councils will determine what their Housing Growth Target will be;
 - b. councils will set out whether they are complying with their Housing Growth Target; and
 - c. central government will assess whether councils are complying with their Housing Growth Target.
98. The NPS-UDC (and later the NPS-UD) introduced HBAs. Councils have used HBAs to determine what development capacity is required to meet demand, to set housing bottom lines, and to better understand the impact that RMA plans have on development. To date, while central government has reviewed council HBAs, it has generally taken a light-touch approach.
99. Councils currently have discretion about how to assess development capacity and determine the impact of their plans on development markets. For example, councils can determine their own demand projections and develop their own methodologies regarding whether development capacity is feasible.
100. HBAs are highly technical documents and a number of councils, especially those outside the larger centres, lack the capability and capacity to carry out these assessments themselves. Some councils therefore outsource their HBAs to external consultants, which can mean assumptions and methodologies are not always transparent. There is also no requirement for councils to 'show their working' regarding the preparation of HBAs. These factors can undermine the confidence that central government has in the capacity being enabled. This situation is also likely to limit the usefulness of these documents to councils themselves.

...and monitoring compliance of the HBAs will become increasingly important

101. It will be important that in shifting to the proposed Housing Growth Target approach and in making the MRDS optional, central government has confidence that councils are complying with the Housing Growth Targets, and that there are timely and effective responses available in the event of non-compliance.
102. This will require:
 - a. strengthened prescription in relation to methodology for HBAs (discussed under Issue 1);
 - b. greater transparency about the inputs and assumptions councils use to reach a particular conclusion;
 - c. increased central government monitoring of HBAs;
 - d. the ability for central government to identify and respond formally to early indications of potential non-compliance (rather than waiting to take action at the end of council RMA process); and
 - e. the ability to enforce compliance if other processes have not worked.
103. If a council is non-compliant with their Housing Growth Target as shown by their HBA, and doesn't take steps to address it, further intervention may be needed.

New or improved legislative powers could be beneficial to support compliance

104. As set out in the context section, the Minister for the Environment (or their delegate) has access to a range of compliance tools under the RMA. The status quo powers have only been used occasionally in specific circumstances where there have been

significant environmental or council performance issues.¹⁵ Often when they have been used, it is after informal support has been provided to the council, recognising the balance between national and local decision-making processes.¹⁶ The lack of use of these powers likely reflects a combination of:

- a. issues that arise are resolved informally either through relationships between officials or at a political level;
 - b. a lack of political appetite to exercise these powers, including a perceived high risk of judicial review, controversy, and generally litigious behaviour;
 - c. central government not always prioritising oversight and monitoring council compliance with the RMA and national direction, creating difficulty in clearly demonstrating that a council has not met legal requirements; and
 - d. an underpinning philosophy in the RMA of devolved governance, and not interfering in local decision making unless absolutely necessary.
105. While existing powers could be used to request information (e.g. using section 27 of RMA) and other informal and formal channels (such as writing a letter) could be used to work with councils to amend HBAs, there is no clear statutory hook for directing a change to an HBA to more clearly identify non-compliance with requirements at present. Clearly identifying such non-compliance is likely to be a necessary precondition to councils releasing more development capacity on their own accord or – if necessary – central government taking further compliance action. There may be instances in which a council is non-compliant with their Housing Growth Target for reasons within the council’s control, and does not initiate a plan change on its own accord to remedy this non-compliance.
106. Section 25A of the RMA provides the Minister for the Environment (or their delegate) with the ability to direct a plan change to address non-compliance. However, it does not allow Ministers to direct the process councils should use to make the directed plan change. Councils could either apply to use the Streamlined Planning Process or use the standard Part 1, Schedule 1 plan change process, which can take up two years, followed by an appeals process which can add significantly to this timeframe. Alternatively, the Minister for the Environment can “call in” a plan change and refer it to a Board of Inquiry (with no appeal rights).

¹⁵ With the exception of Section 27 which is used annually to collect data from councils to monitor RMA processes (such as consenting and plan preparation) nationally.

¹⁶ One example in which compliance tools have been used was when Christchurch Council did not notify its intensification plan change by the legislated timeframe. The then Minister for the Environment initiated an investigation under section 24A into the circumstances surrounding the non-notification. The council subsequently notified the required plan change.

Options description

107. The following options will be assessed as options to address central government monitoring of compliance. These options are complementary rather than mutually exclusive.

Option	Description
Option 5A: Status quo	<p>The Minister for the Environment (or their delegate), could exercise the following powers under the RMA:</p> <ul style="list-style-type: none"> • investigate a council’s performance of its functions and powers and make subsequent recommendations (section 24A); • appoint a person to carry out a council’s functions (section 25); • direct a council to prepare a plan change to address an issue identified via a previous investigation (section 25A); • direct a council to start a review of its plan (section 25B); • require a council to provide information on the exercise of its powers and functions (section 27). <p>While central government powers would not change under this option, Ministers could choose to make greater use of existing powers under the RMA.</p>
Option 5B: Require councils to provide relevant information about HBAs to central government	<p>This option would involve changes to the NPS-UD to require councils to provide their relevant data, assumptions, and methodologies used in HBAs to central government when developing HBAs every three years. This would mean officials would have more information to assess whether councils have complied with the Housing Growth Targets.</p>
Option 5C: New discretionary power to require councils to amend part or all of their HBA, in the event of non-compliance with any relevant requirements	<p>This would involve changes to the RMA to provide a discretionary power for central government to use, on advice from officials after receiving the information received under Option 5B. If officials, in assessing the information provided, find that councils have not met the requirements in the NPS-UD relating to development capacity, central government could formally direct the council to amend their HBA. For example, if councils use lower demand projections than required, central government could direct the use of the alternative projections. This may result in councils needing to release more development capacity than otherwise planned.</p> <p>Further work is being undertaken on institutional settings, including who would be responsible for directing changes to an HBA.</p>
Option 5D: New discretionary power to direct councils to follow a streamlined planning process in the event of	<p>Under this option, the RMA would be amended to include an ability to direct that a council must use a streamlined planning process to address non-compliance with urban national direction (rather than just having the ability to direct a non-specified form of plan change at present). For example,</p>

non-compliance with national direction	<p>councils might be directed to use a streamlined planning process to release more development capacity so that they are compliant with the Housing Growth Targets. The RMA's current Streamlined Planning Process does not involve appeals, and allows for other features of the plan change process to be customised to an individual council's circumstances. In addition, the Minister for the Environment is the final decision-maker on a plan change. This would be a discretionary power.</p> <p>Further work is being undertaken on institutional settings, including who would be responsible for directing and approving a plan change in the future.</p>
--	---

108. There is an outstanding question in relation to who would exercise the proposed power/s described in the above table. Further work is being undertaken to understand options for who should be able to exercise the proposed powers.
109. Depending on who would exercise the proposed powers (and in particular the power described in 5D) there would be a number of different impacts in terms of legal risk (and perceived conflicts of interest) and impacts on the wider resource management system. These would need to be worked through as part of the analysis of these options.

Options analysis

Criterion	Option 5A: Status quo	Option 5B: Require councils to provide relevant information about HBAs to central government	Option 5C: New discretionary power to require councils to amend part or all of their HBA, in the event of non-compliance with any relevant requirements	Option 5D: New discretionary power to direct councils to follow a streamlined planning process in the event of non-compliance with national direction
Enabling Housing	0	+ This would support central government monitoring of the Housing Growth Targets.	+ This would support central government to ensure that councils are meeting the requirements of the Housing Growth Targets as outlined in the HBA provisions of the NPS-UD.	+ This would help to ensure additional development capacity would be enabled quickly.
Ease of implementation	0	++ This material is already prepared by councils – the only additional step would be to provide it to central government.	- It would be easy to legislate to create this power. Assessing whether councils have met requirements and using a power would likely require additional resourcing (including specialist skills), for central government. Local government would likely also require additional resourcing to meet requirements.	- It could be easy to legislate for this power to exist. However using the power could require additional resourcing (including specialist skills).
Clarity of obligations	0	++ Setting this as a proactive requirement would set clear expectations (as compared to potentially requesting this information ad hoc).	++ There would be much clearer roles and clearer obligations for councils compared with the status quo.	++ If used, it would be clear which plan change process councils are required to follow. Could let councils 'off the hook' in making the tough decisions given that the current streamlined planning process involves final decision-making by Ministers.
Flexibility for councils	0	0 This proposal would not impact local choice.	0 This proposal would not impact local choice. Some discretion for councils would remain on some aspects of HBAs, which will not be covered by this power.	-- Significantly less direction for local government and could override local government decision making.
Overall assessment	0	++	+	+/-

Discussion

110. Using HBAs to support decisions on whether councils are meeting the Housing Growth Targets will require there to be greater transparency around the assumptions and methodologies used by councils, as well as increased central government oversight to support compliance.
111. Requiring particular information underpinning the HBAs and a new intervention power to direct a change to HBAs in the event of non-compliance raises the importance of these assessments and signals that central government is serious about these being done well. It would also provide central government with greater confidence that councils are increasing their supply of developable land for housing and enabling more competitive land markets. Options 5B and 5C would help bridge the gap between information requirements or requests, and the more interventionist powers already available in the RMA. This would improve central government's ability to monitor compliance and react proportionately to any issues, including earlier than current arrangements allow.
112. The effectiveness of Option 5C would depend on what the requirements of the NPS-UD will be (as opposed to guidance). Decisions are yet to be taken on some of these matters.
113. Having a spectrum of intervention options is more likely to enable appropriate action when non-compliance is identified. However, increased oversight of council implementation of national direction requires resourcing and is a precondition to central government intervention. As with the status quo powers, if Options 5C and 5D were used, this would have resourcing implications for the councils involved.
114. Directing the use of a streamlined planning process would bring forward development capacity much faster than the standard Part 1, Schedule 1 plan change process, because of the lack of appeals (and potentially other process changes). However, there are also a number of challenges and risks with this approach. As set out above, the RMA currently requires councils to apply to use the Streamlined Planning Process, as the Minister becomes the decision-maker on a plan (rather than a council), and it removes the ability to appeal decisions (except in relation a very small number of matters).
115. Option 5D could therefore have significant implications for local decision-making. It could also have the perverse incentive of letting councils 'off the hook' in making tough decisions and shifting this responsibility to the Minister. However, it would provide a much faster process for bringing forward capacity through the lack of appeals. To address concerns around conflict of interest, further work is being undertaken on *who* could exercise powers under Options 5C and 5D, including looking at whether an independent institution could play a role.
116. HUD prefers adopting all of Options 5B, 5C and 5D, to ensure central government has a full spectrum of monitoring and compliance tools available, to meet the stated objectives. HUD's support of Option 5D is in principle, subject to further work on who exercises these powers.
117. MfE consider that Options 5B and 5C are useful tools to support greater transparency in HBAs. However, MfE consider that Option 5D is not required to achieve the outcome sought, and that greater use of existing powers under the RMA could be used. As noted above, who exercises the powers is also a key consideration, and will shape MfE analysis of the options in the next stages of policy work.

Issue 6 – Minimum floor area and balcony requirements

Problem definition

118. Minimum floor area and balcony requirements increase the costs of development, particularly for apartments at the lower end of the market.
119. Councils set minimum floor area and balcony requirements to improve residential amenity and liveability, for example, to ensure new apartments are functional and do not adversely affect accessibility.
120. In the Tier 1 councils, minimum balcony rules apply in Auckland, Waikato, Waipā, Christchurch City, Porirua, Upper Hutt, Hutt City, Tauranga City, Western Bay of Plenty, Wellington City and Selwyn. The size requirements for balconies are between 5m² and 15m².
121. Minimum floor area rules apply in Auckland, Waikato, Hamilton, Waipā, Christchurch City, Tauranga City, Kapiti Coast, Wellington City and Western Bay of Plenty. These minimum floor area requirements vary between 30 – 50m² for studio units, and 40 – 50m² for one-bedroom units. Some councils also have requirements for two and three-bedroom units.
122. Grimes and Mitchell surveyed property developers active in the Auckland market, for their 2015 report *Impact of Planning Rules, Regulations, Uncertainty and Delay on Residential Property Development*. This report was prepared for Motu Economic and Public Policy Research and focuses on the ‘affordable’ part of the market. The report estimated that balcony size requirements increased the costs of an apartment by \$40,000 to \$70,000 per unit, and minimum floor area requirements result in fewer low-cost dwellings being developed.¹⁷
123. A 2014 report prepared by MRCagney (commissioned by Auckland Council) examined the economic impacts of rules on minimum apartment and balcony areas in the proposed Auckland Unitary Plan (PAUP). This report found that the rules would have two negative economic impacts: “First, people who would have chosen to live in small apartments will be negatively affected by the reduced availability of this housing type. Second, the reduction in the availability of housing will in turn increase demand for other types of housing, causing prices to rise across the board.”¹⁸
124. The MRCagney report found no evidence to support the contention the PAUP minimum floor area and balcony rules would improve residential amenity and wellbeing. Grimes and Mitchell did not attempt to value the benefits of the planning rules and regulations and instead highlighted that this is an issue more appropriately considered by local and central government.
125. The Productivity Commission, in their 2015 report *Using Land for Housing*, recommended councils remove minimum floor space and balcony requirements for apartments from district plans. The report found the requirements created costs unlikely to be outweighed by any benefits.

¹⁷ Grimes A, Mitchell I. 2015. *Impacts of planning rules, regulations, uncertainty and delay on residential property development*. Motu Working Paper 15-02. Wellington: Motu Economic and Public Policy Research.

¹⁸ MRCagney. 2014. *The economic impacts of minimum apartment and balcony rules*. Prepared for Auckland Council. Auckland: MRCagney.

Options description

126. The following options will be assessed as options to address the issue of minimum floor area and balcony requirements. These options are mutually exclusive.

Option	Description
Option 6A: Status quo	Councils may set minimum floor area and balcony requirements.
Option 6B: Prohibit councils from setting minimum floor area and balcony requirements	Councils would be prohibited from setting minimum floor area and balcony requirements.

Options analysis

	Option 6A: Status quo	Option 6B: Prohibit councils from setting minimum floor area and balcony requirements
Enabling housing	0	<p style="text-align: center;">++</p> <p>Regulatory barriers to building smaller apartments would be reduced. Cost of new, particularly smaller apartments, would be reduced.</p> <p>Would allow individuals to have more housing choice and make their own choice about the size of home they want and need.</p>
Ease of implementation	0	<p style="text-align: center;">-</p> <p>Councils would need to undertake a process to remove minimum floor area and balcony requirements. Further work would be required on whether the rules can just be removed in a similar manner to the removal of minimum car parking requirements,¹⁹ or if an RMA plan change process would be required.</p>
Clarity of obligations	0	<p style="text-align: center;">++</p> <p>Increased clarity for councils and developers. Other regulation (i.e. the Building Code) would still set minimum requirements nationwide, but local differences would be removed.</p>
Flexibility for councils	0	<p style="text-align: center;">-</p> <p>This proposal would reduce flexibility for councils.</p>
Overall assessment	0	++

Discussion

127. Agencies support prohibiting councils from setting minimum floor area and balcony requirements. The proposed option would reduce the cost of housing, particularly smaller apartments, by removing regulatory barriers to the construction of these apartments. However, developers would still be able to size dwellings as desired and choose to provide balconies as they see fit.
128. The proposed option could lead to developers building apartments that are of sizes that impact wellbeing and functionality and could adversely impact accessibility or the health of residents. However, agencies consider this risk low as:

¹⁹ The NPS-UD specified that councils must remove the relevant car parking provisions from their plans without using the standard RMA plan change process (Schedule 1). Councils were still required to notify the public of this change under section 55(2) of the RMA, by publishing a formal notice on their website and a summary of the notice in at least one local newspaper.

- a. Minimum performance requirements for dwellings are still set in other regulation such as the Building Code.
 - b. Individuals would retain choice around the size of home they require. Individuals who want to live in small apartments could choose to do so, while those requiring larger homes would still have this option.
129. Some banks in New Zealand are hesitant to lend against small dwellings. Either they do not lend at all or require significantly higher deposits than for larger properties (e.g., some require a 50 per cent deposit). Knowing prospective buyers may struggle to obtain finance for small dwellings, this may limit the impact of the proposed option on enabling housing.
130. The MDRS also sets minimum outdoor living space requirements for residential units. However, the MDRS requirements permit outdoor space for multiple units to be grouped together, for example a shared courtyard or roof terrace, and do not require balconies for above ground units. As such, in areas where councils do not remove the MDRS, the removal of minimum balcony requirements will still provide more flexibility to developers around how to provide outdoor living space.

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

131. The Table below sets out the preferred options package.

	Minister of Housing and HUD’s preferred options package
Issue 1 – Providing sufficient development capacity	Option 1D: Option 1B + a requirement to ensure price indicators do not deteriorate over time, with councils required to enable additional capacity where these do deteriorate.
Issue 2 – Medium Density Residential Standards	Option 2C: Amend the RMA to enable councils to opt out of the MDRS after a ratification vote via the Streamlined Planning Process if they demonstrate compliance with the Housing Growth Targets (see Issue 1 above), and have no net loss of development capacity from what would be enabled by having incorporated the MDRS and NPS-UD.
Issue 3 – Intensification	Option 3C: Option 3B + extensions to the NPS-UD intensification requirements.
Issue 4 – Mixed-use development	Option 4C: High-level direction would be provided to councils on the mixed-use outcome that they need to achieve, and specific direction on the activities that must be enabled to achieve this.
Issue 5 – Monitoring and tools to achieve compliance	Option 5B: Require councils to provide relevant information about HBAs to central government. Option 5C: Provide central government with a new power to require councils to amend part or all of their HBA, in the event of non-compliance with requirements. Option 5D: New discretionary power to direct councils to follow a streamlined planning process in the event of non-compliance with national direction.
Issue 6 – Minimum floor area and balcony requirements	Option 6B: Prohibit councils from setting minimum floor area and balcony requirements.

132. MfE put greater emphasis on options that provide for local discretion in achieving outcomes (in particular in relation to mixed use), and that have less system wide implications (such as in relation to new powers for central government). As a result, MfE’s preferred options package differs from the above package in the following respects:

- a. MfE favours Option 4B (provide high-level direction on mixed-use), not Option 4C.
- b. MfE does not favour Option 5D.

133. MfE’s preferred package is unlikely to have a large impact on the marginal costs and benefits table. However, it may have resulted in slightly greater costs associated with plan changes (e.g. using the plan change process that allows for appeals rather than being directed to use a plan change process with no appeals), and in locally determining an appropriate mix of uses for an area. The MfE package may also have lower costs to central government in developing policy including for mixed use.

What are the marginal costs and benefits of the preferred options package?

134. The table below summarises the costs and benefits of the proposed package of options preferred by HUD and the Minister of Housing, as set out above.

Category	Affected groups	Comment	Impact	Evidence Certainty
Additional costs of HUD and the Minister of Housing’s proposed package of options, compared to taking no action				
Plan changes and pre-plan change work	Councils	<p>Councils will need to undertake additional plan changes to give effect to all of the proposals in this package. These are costly and time consuming and also come with opportunity costs – other work (such as implementing other National Direction instruments or planned plan changes for other matters) will likely be postponed or stopped.</p> <p>Councils will also need to develop and/or implement processes to signal when infrastructure is in place (such as the widespread deployment and use of infrastructure triggers), as well as require more information on the current state of existing infrastructure. This will likely add costs to councils.</p> <p>There will also be costs to councils from undertaking additional HBAs.</p>	<p>High costs to councils.</p> <p>s 9(2)(ba)(i)</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	Medium
Development and implementation of proposals	Central government	<p>Central government will need to develop new policy. This related to the preferred options for all the issues.</p> <p>Central government will also need to undertake more detailed monitoring of council compliance with new requirements, provide additional data to support council implementation and potentially</p>	<p>Medium impact - additional resourcing compared to the status quo will be required to develop new policy.</p>	High

²⁰ Indicative costs were \$480,000 over three years; however, this may be more. This is because Upper Hutt City Council was already progressing an urban and rural plan change (Plan Change 50) before the IPI requirement came into effect. Therefore, some relevant policy work had already been undertaken.

		<p>undertake compliance action where necessary. This primarily relates to the preferred options for Issues 1 and 5.</p> <p>It is likely that agencies will require additional resourcing, and ideally this will require standing capacity, including technical expertise. Implementation support will be scalable.</p> <p>It is most likely agencies will require additional technical expertise to support the development of price indicators (Option 1D).</p> <p>Central government will also need to support each Streamlined Planning Process (for implementation of Issue 2), which will likely vary in scale and complexity.</p>	<p>Uncertain impact - Level of implementation support, monitoring and compliance action will be scalable.</p> <p>2 FTE for a period of 3 months would be required to support a Streamlined Planning Process.</p>	<p>Low-medium</p> <p>High</p>
Understanding proposals and participating in plan change processes	Developers, businesses and residents	Developers and residents will need to become familiar with (multiple) new plan change requirements, and may wish to participate in plan change processes, which can involve cost and time, and may involve relitigating decisions made through ISPP process and have an impact on investment certainty. This will relate to preferred options for Issues 1-4 and 6.	Will vary across submitters, based on the particular complexity of individual council plan changes to implement proposals.	Medium
	Iwi/Māori	Providing central government direction on intensification, development capacity and mixed-use will reduce some local discretion, which in turns limits the ability of iwi/Māori to participate in local decision and place-making.	Unclear, consultation required to determine impacts.	Medium
Environmental and vehicle-related externalities	Future generations Existing residents	Making the MDRS optional may result in a greater share of development capacity being provided in greenfields, rather than brownfields areas. Such areas may be further from centres and good public transport options, potentially increasing car dependency. This is likely to produce additional emissions, and lead to increased congestion compared with the status quo.	Medium	Low
Externalities from a mix of uses/activities in a location	Existing residents	Allowing more mixed-use development may result in some noise traffic and other related externalities for existing residents located close to new commercial or community activities. These are expected to be minimised through not enabling incompatible activities in residential areas, through rules (e.g. noise limits) in district plans, and through consent conditions, but some externalities may nevertheless exist.	Low	Low

Amenity (overshadowing, overlooking/privacy)	Existing residents	Enabling additional intensification (Issue 3) in some areas may result in reductions in private amenity for some, including through overshadowing/sunlight and privacy loss.	Low	Low
Increased transaction costs	Developers	Making the MDRS optional (Issue 2) may increase transaction costs for developers and reduce investment certainty, as development that would have been permitted as of right without a resource consent under the MDRS may now require a resource consent.	Medium	Low
	Total monetised costs		Unclear	
	Non-monetised costs		Medium	Low-Medium
Additional benefits of the Minister of Housing's proposed package of options compared to taking no action				
Agglomeration benefits in production	Existing residents and future generations, businesses and government	If councils need to enable more development capacity than under the status quo, this may have positive 'spillover' benefits due to more firms and workers being located in the same cities, and in doing so sharing knowledge, inputs and matching with better workers and customers. There may be gains in productivity, profitability, wages, and tax revenue which accrue to businesses, households, and government.	Medium	Low
Consumer benefits	Existing residents and future generations, businesses	Requiring councils to better-enable mixed-use development (Issue 4) may benefit consumers by enabling households to access more diverse goods and services closer to where people live.	Low-Medium	Low
Consumer surplus	Existing residents and future generations, particularly homebuyers and renters	Existing residents and future generations will benefit from plans that in many cases enable substantially more capacity than under the status quo (although infrastructure availability may be less certain). This primarily relates to Issues 1,3,4 and 6. Providing more development capacity should result in housing supply that is more responsive to price changes, and in turn lower housing prices for people entering the housing market, compared to the status quo. Lower housing costs increase the difference between what consumers must pay for	Medium-high	Low

		accommodation and what they're willing to pay – thereby providing an additional surplus to consumers.		
Competition	Existing residents and future generations, businesses	Better-enabling mixed-use development may at the margin improve competition between businesses by providing more options for where businesses can locate. Competition benefits associated with mixed use may be undermined by provisions in the RMA that allow resource consents for new commercial developments to be declined if they would have 'adverse retail distribution effects' on existing centres.	Low	Low
Environmental and vehicle-related externalities	Future generations and existing residents	Enabling more intensification in some areas may result in a greater share of development capacity being provided in brownfields areas that are close to centres and good transport options, reducing car dependency. This may reduce emissions and may lead to reduced overall congestion.	Low	Low
Amenity (e.g., overshadowing, overlooking/privacy)	Existing residents	Making the MDRS optional may involve less medium density development in some areas than would have been the case under the status quo. This may result in reduced impacts on private amenity for some, including through less overshadowing and privacy effects.	Low	Low
Reduced transaction costs	Developers	Requiring councils to enable more intensification in some parts of their urban areas may reduce transaction costs for developers, as there may be clearer pathways to resource consent for some medium- or high-density developments than at present (although infrastructure availability may be less certain).	Low	Low
	Iwi/Māori	Providing central government direction to allow mixed uses and intensification, may allow for the more flexible development on Māori land including commercial activities and papakāinga.	Unclear, consultation required to determine impacts.	Low
	Total monetised benefits		Unclear	
	Non-monetised benefits		Medium	Low

Impacts on Māori

135. Options assessed include several impacts and considerations for Māori, including:
- a. Significantly increasing the supply of developable land for housing has the potential to increase housing supply. This may improve housing outcomes for Māori. Targeted policy interventions to support improvements in housing outcomes for Māori could support steps to address the disparity in housing outcomes currently experienced by Māori.
 - b. Areas that enable mixed-use activities may be more likely to assist Māori communities to provide for their unique social, cultural, environmental, and economic needs (eg, zoning for papakāinga often provides for a mix of activities – not just residential). Positive outcomes for Māori are more likely where decisions around mixed-use can accommodate local needs.
 - c. Enabling councils to decide where intensification occurs may provide greater opportunities for iwi and hapū to be involved in this decision making, where councils work with iwi and hapū.
 - d. Enabling councils to decide where growth is enabled may result in live-zoning largely occurring further from urban centres in lower socio-economic areas where Māori are more likely to live (i.e. West and South Auckland and parts of Lower Hutt). The specific impacts on Māori would depend on the scale and type of new housing being enabled and built, and the types of newly established activities in those areas.

Section 3: Delivering an option

How will the new arrangements be implemented?

136. These proposals will be implemented through a combination of an RMA Amendment Bill, likely to be introduced in the last quarter of 2024, and the proposed integrated national direction process (for changes to the NPS-UD). This means that the proposals will likely be in place by mid-2025, with implementation by councils to follow.
137. Councils seeking to remove or alter the MDRS will have to give effect to the Housing Growth Targets, intensification changes, and direction on mixed-use through the same plan change they use to remove the MDRS.
138. For councils that choose to retain the MDRS, further work will be done by HUD and MfE to develop a sensible process and timeframe for implementation that takes into account other new or amended national direction under the RMA that councils will have to implement as part of our wider Resource Management Reform programme. The Minister for Resource Management Reform will make decisions on this through the resource management Phase 2 reform national direction process. This will recognise the significant investment already made in district planning processes to implement the MDRS and intensification policies.
139. Some councils will not have finished implementing the existing NPS-UD and MDRS requirements before these proposals are enacted. The Minister Responsible for RMA Reform²¹ will make decisions regarding the process requirements for each of these councils on a case-by-case basis, reflecting each council's differing circumstances. While avoiding councils undertaking unnecessary work to put the MDRS in place, if they plan to amend or remove it, is preferable, an overarching objective is to get the intensification policies of the NPS-UD in place as soon as possible, given the significant development capacity it will unlock across major cities.
140. The proposed options package will require the continued use of HBAs as a means of assessing whether councils are providing sufficient development capacity. Currently councils have to produce HBAs at least every three years. Officials propose to retain this frequency.

Implementation risks – monitoring and compliance

141. Both the preparation of HBAs, and the monitoring and interpretation of price indicators, is complex, resource-intensive, and requires specialist expertise. With the potential exception of Auckland and Christchurch, councils largely lack the in-house capability to produce and monitor both HBAs and price indicators, and most currently out-source the preparation of HBAs.
142. Central government will need to support councils in implementing these changes, especially given councils are at different stages of implementation. This includes managing Ministerial roles in relation to the Streamlined Planning Process for any council that proposes to remove or alter the MDRS. Beyond this, best practice would include support including producing non-statutory guidance, engagement with councils and other stakeholders, and transparent monitoring and evaluation, such as an implementation, monitoring and evaluation plan. The level of support provided will be subject to agency resourcing and Ministerial priorities.

Implementation risks – infrastructure

143. Enabling councils to opt out of the MDRS but requiring them to provide sufficient development capacity will have a range of infrastructure impacts. Councils will need to be clearer about the current state of existing infrastructure, and potentially develop

²¹ This power has been delegated to the Minister Responsible for RMA Reform by the Minister for the Environment.

and/or implement processes to signal when infrastructure is in place to support a new approach to providing sufficient development capacity via Housing Growth Targets. To support this, changes may be required to legislation to better facilitate the use of 'infrastructure triggers'. Triggers could help councils to place conditions on live-zoned land to ensure that key infrastructure will have been built before development occurs. Once the infrastructure is in place, no further plan change would be required. Officials are considering whether changes to the RMA are required to better facilitate the use of infrastructure triggers. If so, changes will be considered through an RMA Amendment Bill.

144. Investment in infrastructure (primarily trunk road and water infrastructure) will be required to realise development capacity. Councils opting out of the MDRS are more likely to need to enable additional greenfield development than those that choose to retain it.
145. Councils will need to consider both existing infrastructure capacity, the costs associated with providing new infrastructure to support growth, and the Government's intention to set new rules that growth infrastructure costs are paid for by those benefiting most from this infrastructure (see below), when providing for sufficient development capacity and meeting the proposed housing growth targets.
146. Even with changes to rules for funding greenfield infrastructure, some councils may ultimately choose to keep the MDRS and/or intensify in brownfields areas if the costs of providing infrastructure to support growth are lower. There is some evidence that the costs of providing infrastructure for growth is cheaper for brownfields than greenfields, however this varies widely subject to the circumstances of individual projects.
147. The Government has a wide-ranging work programme for improving infrastructure funding and financing settings to ensure that infrastructure is not a bottleneck on greenfield or brownfield development where it makes economic sense to develop housing. This includes setting consistent requirements that infrastructure costs associated with growth are funded by rates and levies on new development, rather than being cross-subsidised by councils or central government, and ensuring existing and any new funding and financing tools are fit for purpose and can support different projects.

Implementation risks – Engagement with Māori

148. Wai 2750 Kaupapa Inquiry into Housing Policy and Services notes Crown consultation with Māori regarding housing has historically been poor. This could be addressed through more fulsome engagement begin undertaken with iwi as part of the engagement on any RMA Amendment Bill and the national direction package.
149. Further, any policy changes that impact consenting processes will need to consider Treaty settlement redress and relationship commitments agreed between iwi and the Crown, to ensure the intent and effect of settlements are upheld.

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

150. The Ministry of Housing and Urban Development and the Ministry for the Environment will monitor the effect of the proposals both as they are implemented, and following then, to determine the effectiveness of the proposals and whether any unintended consequences have arisen. This includes:
 - a. reviewing council plan changes to give effect to proposals as they are notified;
 - b. where necessary, submitting on proposed plan changes to seek changes;
 - c. reviewing council HBAs as they are prepared;
 - d. monitoring price indicators, such as urban fringe land price differentials; and

- e. monitoring overall housing system performance, including high-level metrics such as levels of building consents and house prices.
151. The timing of such monitoring will be informed by timing of council plan change processes, which is still to be determined.
152. The effectiveness of the monitoring and evaluation will be improved by some of the proposals, as well as clearer requirements in the NPS-UD. In addition to these, some relevant data could be obtained via MfE's National Monitoring System, which collects data from all local authorities on their RMA processes, including any plan changes to implement national direction. Other information could be gathered through direct interactions with relevant councils.
153. If monitoring reveals issues, intervention actions are available to central government, including to:
- a. investigate the performance of local authorities in giving effect to the proposals;
 - b. provide recommendations to local authorities on improving their performance;
 - c. direct plan changes or reviews (including a proposed new power to direct the use of a streamlined planning process); and
 - d. as a last resort, appoint someone to carry out the local authority's functions and duties.
154. Evaluation or review will occur following completion of council plan changes to implement the proposed options.

Annex 1: List of Tier 1 and Tier 2 local authorities

Tier 1 urban environments

- Auckland (Auckland Council)
- Christchurch (Canterbury Regional Council, Christchurch City Council, Selwyn District Council and Waimakariri District Council)
- Wellington (Wellington Regional Council, Wellington City Council, Porirua City Council, Hutt City Council, Upper Hutt City Council and Kāpiti Coast District Council)
- Tauranga (Bay of Plenty Regional Council, Tauranga City Council and Western Bay of Plenty District Council)
- Hamilton (Waikato Regional Council, Hamilton City Council, Waikato District Council and Waipa District Council)

Tier 2 urban environments

- Whangārei (Northland Regional Council, Whangārei District Council)
- Rotorua (Bay of Plenty Regional Council and Rotorua Lakes Council)
- New Plymouth (Taranaki Regional Council and New Plymouth District Council)
- Napier-Hastings (Hawke's Bay Regional Council, Napier City Council and Hastings District Council)
- Palmerston North (Manawatū-Whanganui Regional Council and Palmerston North City Council)
- Nelson Tasman (Nelson City Council and Tasman District Council)
- Queenstown (Otago Regional Council and Queenstown Lakes District Council)
- Dunedin (Otago Regional Council and Dunedin City Council)

Annex 2: Council progress in giving effect to MDRS and NPS-UD

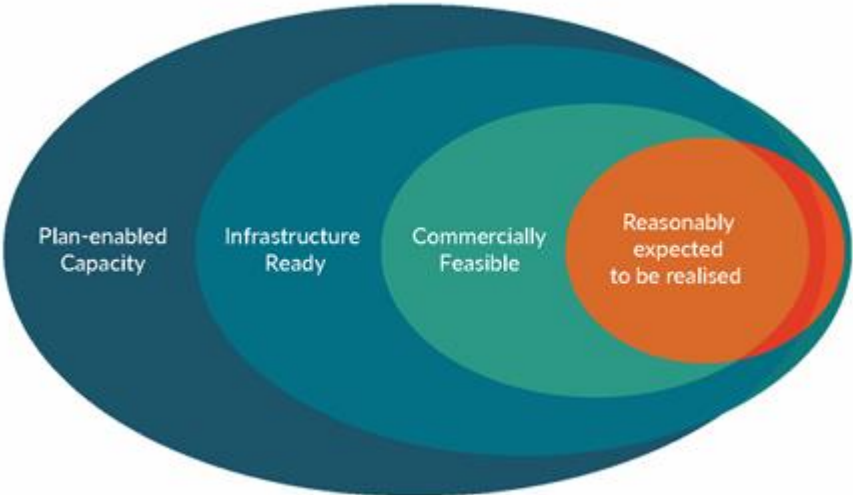
155. The table below outlines council progress at implementing the MDRS and Policy 2 and 3 of the NPS-UD. Other aspects of the NPS-UD, such as removal of minimum carparking requirements, have been implemented on different timeframes.

Council	Status	Completion date / Current deadline for completion
Kāpiti Coast District Council	Completed	20 August 2023
Selwyn District Council	Completed	20 August 2023
Hutt City Council	Completed	22 September 2023
Porirua City Council	Completed	14 December 2023
Upper Hutt City Council	Completed	20 December 2023
Western Bay of Plenty	Completed	1 March 2024
Rotorua Lakes Council	Completed	31 March 2024
Wellington City Council	Completed	20 March 2024
Tauranga City Council	Substantive plan change: Council decision on IHP recommendations made on 20 May 2024. Two recommendations were rejected and referred for Ministerial decision. Variation 1 – Tauriko West Growth Area: Public submissions period has closed. Hearings scheduled for late 2024/early 2025.	30 June 2024 (for its substantive plan change) 31 December 2025 (for Variation 1: Tauriko West Growth Area)
Waikato District Council	Hearings complete.	31 March 2024, extension requested to 6 December 2024
Waipā District Council	Hearings complete.	30 August 2024
Waimakariri District Council	Hearings yet to commence.	17 December 2024
Hamilton City Council	Hearings yet to commence.	20 December 2024
Christchurch City Council	Hearings complete.	12 September 2024 (NPS-UD) 12 December 2025 (MDRS)
Auckland Council	Plan change hearings paused.	31 March 2026

Annex 3: Explanation of current development capacity requirements

- 156. The NPS-UD requires councils to provide sufficient development capacity to meet demand (plus a competitiveness margin) over the short, medium and long term. In order to be sufficient to meet expected demand for housing, the development capacity must be all of the below:
 - a. **Plan-enabled.** Plan-enabled capacity is theoretical capacity (i.e. what is allowed to be built under a council's district plan) – it is not subjected to an assessment of whether it would be feasible to develop in practice.
 - b. **Infrastructure-ready.** This means plan-enabled capacity that is (or will be, depending on the time horizon) serviced with sufficient trunk water and transportation infrastructure to support development.
 - c. **Feasible and reasonably expected to be realised.** Plan-enabled capacity is considered feasible if a developer could build that capacity at a profit (based on factors like market prices, construction costs, location, typology etc.). Reasonably expected to be realised capacity is the amount of plan-enabled, infrastructure ready, and feasible capacity that a council expects will be built.
 - d. For Tier 1 and 2 local authorities, **supported by an appropriate competitiveness margin** (an extra margin of development capacity intended to support choice and competitiveness in housing and business land markets).
- 157. Not all capacity that is plan-enabled will be infrastructure-ready, commercially feasible, or reasonably expected to be realised, as shown in Figure 1 below.

Figure 1: Distinction between different forms of capacity



- 158. 'Plan-enabled' and 'infrastructure-ready' mean different things over different time horizons, as set out in the table on the following page.

Table 1: Current development capacity requirements over different time horizons

Time horizon	Meaning of plan-enabled	Meaning of infrastructure-ready	Competitiveness margin for Tier 1/2
Short term (0-3 years)	Development capacity is on land that is zoned for housing in an operative district plan.	There is adequate existing development infrastructure to support the development of the land.	Expected demand + 20%
Medium term (3-10 years)	Either the above applies, or otherwise development capacity is on land that is zoned for housing in a proposed district plan.	Either the above applies, or otherwise funding for adequate development infrastructure to support development of the land is identified in a long term plan.	Expected demand + 20%
Long term (10-30 years)	Either the above applies, or otherwise development capacity is on land identified by for future urban use or urban intensification in a FDS or any other relevant plan or strategy.	Either the above applies, or otherwise the development infrastructure to support the development capacity is identified in the local authority's infrastructure strategy (as required as part of its long term plan).	Expected demand + 15%

Annex 4: Development capacity being enabled under the status quo

159. Table 2 below provides a breakdown of how much development capacity councils were, are, or expect to be providing for housing – both prior to plan changes to give effect to the NPS-UD and MDRS, and following them.

Table 2: Overview of development capacity enabled under status quo

Council	Most recent council assessment of 30 year demand	Short-term plan-enabled capacity		Short-term plan-enabled, infrastructure ready, feasible and realisable capacity	
		Pre-NPS-UD/MDRS	Post-NPS-UD/MDRS	Pre-NPS-UD/MDRS	Post-NPS-UD/MDRS
Auckland	197,100 (2023)	909,179	2,615,580	Unclear	271,000
Hamilton	44,400 (2023)	130,600	242,500 ²²	4,300	12,400
Tauranga	28,980 (2022)	63,060	189,500	3,225	Unclear
Wellington	30,407 ²³ (2023)	104,941	299,364	26,399* ²⁴	73,856*
Christchurch	32,103 (2023)	205,178	544,000	82,452 ²⁵	94,000 ²⁶
Waikato	13,900 (2023)	12,300	59,700	300	5,600
Waipā	9,400 (2023)	20,400	42,000	4,400	4,100
Western Bay of Plenty	7,710 (2022)	Unclear	Unclear	1,564	1,440
Rotorua	8,250 (2022)	23,700	129,500	1,700	N/A
Kāpiti Coast	11,899 (2023)	17,983	300,996	7,818*	32,673*
Upper Hutt	7,931 (2023)	19,313	241,689	11,361*	18,461*
Hutt	15,421 (2023)	120,518	271,001	16,815*	28,236*
Porirua	11,940 (2023)	150,154	224,767	16,511*	22,589*
Waimakariri	11,308 (2023)	2,273	79,345	2,273 ²⁷	5,950
Selwyn	23,414 (2023)	11,234	108,024	14,154 ²⁸	11,550

²² Post NPS-UD and MDRS numbers for Hamilton, Waikato and Waipā use medium term numbers as these show the impacts of their plan changes.

²³ Wellington, Upper Hutt, Waikato, Waipā, and Hamilton's demand projections include an extra competitiveness margin that is not included in other councils' figures.

²⁴ Wellington, Porirua, Kāpiti Coast, Upper Hutt and Hutt City councils all reported plan-enabled, feasible and reasonably expected to be realised capacity in the long term only (30 years) both before and after their NPS-UD and MDRS plan changes. These numbers also do not include an infrastructure-readiness assessment. All numbers this caveat applies to have an asterisk next to them.

²⁵ We have low confidence in this figure, as the council reports the same number for the short, medium, and long term.

²⁶ As above.

²⁷ We have low confidence in this figure as it is the same as the council's reported plan-enabled capacity.

²⁸ We have low confidence in this figure as it is larger than what the council reports for its plan-enabled capacity.