

HUTT CITY COUNCIL

Ordinary meeting to be held via Zoom on
Monday 28 February 2022 commencing at the conclusion of the Long Term
Plan/ Annual Plan Subcommittee.

SUPPLEMENTARY ORDER PAPER

PUBLIC BUSINESS

**4. RECOMMENDED ITEMS TO TE KAUNIHERA O TE AWA KAIRANGI |
COUNCIL - 28 February 2022**

**a) Policy, Finance and Strategy Committee | Komiti Ratonga
Rangatōpū me te Rautaki - 22 February 2022**

**Item 4e) Resource Management (Enabling Housing Supply and Other
Matters) Amendment Act 2021 and its to implications for the
District Plan review (22/352) 2**

MAYOR'S RECOMMENDATION:

“That the recommendations contained in the minute be endorsed.”

**Item 4f) Intensification Planning Instrument - Initial Option
Identification and Analysis (22/353) 3**

MAYOR'S RECOMMENDATION:

“That the recommendations contained in the minute be endorsed.”

Kate Glanville
SENIOR DEMOCRACY ADVISOR

**RECOMMENDATIONS FROM KOMITI RATONGA RANGATŌPŪ ME TE
RAUTAKI |**

**POLICY, FINANCE AND STRATEGY COMMITTEE MEETING HELD ON
Tuesday 22 February 2022**

4. RECOMMENDATIONS TO COUNCIL – 28 FEBRUARY 2022

- e) Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 and its to implications for the District Plan review (22/352)

RECOMMENDED: (Cr Edwards/Cr Mitchell)

Minute No. PFSC 22105

“That the Committee recommends that Council:

- (1) *notes and receives the officer’s report (Report No. PFSC2022/1/41) attached as Appendix 1 to the report;*
- (2) *agrees to proceed with the District Plan review through Option 2: An Intensification Planning Instrument plan change followed by a full new District Plan.”*

f) Intensification Planning Instrument - Initial Option Identification and Analysis (22/353)

RECOMMENDED: (Cr Edwards/Mayor Barry)

Minute No. PFSC 22106

"That the Committee recommends that Council

- (1) *notes that Council is required under Resource Management (Enabling Housing Supply and Other Matters) Amendment Act to notify an Intensification Planning Instrument by 20 August 2022 to enable greater building heights and density, primarily in residential and commercial areas;*
- (2) *notes that Council opposed the Enabling Housing and Other Matters Amendment Act in its submission to Parliament's Environment Committee in November 2021;*
- (3) *notes that all other tier one territorial authorities (including Kāpiti Coast District, Porirua City, Upper Hutt City and Wellington City Councils) are also required to notify an intensification planning instrument by 20 August 2022;*
- (4) *receives the information contained in the report (Report No. PFSC2022/1/42);*
- (5) *directs officers to work alongside other councils in the region to align their approach and process as much as reasonably practicable;*
- (6) *directs officers in the engagement plan to clearly outline what Council is required to do under legislation and what Council has discretion to do in this Intensification Planning Instrument; and*
- (7) *directs officers to publicly advertise an initial draft of the Intensification Planning Instrument in March/April 2022."*



District Plan Review Subcommittee

12 January 2022

File: (22/11)

Report no: DPRS2022/1/1

Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 and its implications for the District Plan Review

Purpose of Report

1. The purpose of this report is to:
 - a. Inform the Subcommittee on Council's new requirements under the Resource Management Act (RMA) to:
 - i. Prepare an Intensification Planning Instrument; and
 - ii. Process the Intensification Planning Instrument through an Intensification Streamlined Planning Process.
 - b. Inform the Subcommittee on the implications of the Intensification Planning Instrument and Intensification Streamlined Planning Process for the District Plan Review.
 - c. Seek direction from the Subcommittee on how to proceed with the District Plan Review in light of the new requirements.

Recommendations

That the Subcommittee:

- (i) receives the information contained in the report; and

DEM15-4-13 - 22/11 - Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 and its implications for the District Plan Review

Page 1

- (ii) proceeds with the District Plan Review through *Option 2: An Intensification Planning Instrument plan change followed by full new District Plan*.

Background

2. Since 2019, Council has been undertaking a full review of the *City of Lower Hutt District Plan* (the District Plan Review).
3. The current work programme for the District Plan review involves:
 - Preparation of a draft District Plan for engagement with the community in March/ April 2022;
 - Preparation of a proposed District Plan, to be notified for formal submissions by August 2022, following the standard RMA Schedule 1 process, which includes hearings and Council notifying decisions on submissions by August 2024; and
 - From August 2024, resolving any appeals lodged with the Environment Court.
4. Over the last two years, a significant amount of work has been undertaken in reviewing the current District Plan. This work has included technical assessments and research on a range of topics (for example - heritage, natural hazards and noise), engagement with the community and stakeholders, and monitoring the efficiency and effectiveness of the current District Plan. Preparation of new District Plan chapters has also progressed as part of the new draft District Plan.
5. However, in December 2021, the government passed the *Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021* (the Housing Supply Act) which seeks to accelerate the supply of housing in urban areas where demand for housing is high, including the Wellington urban area, by amending the RMA and *National Policy Statement on Urban Development 2020* (NPS-UD).
6. As a result of these amendments, territorial authorities are now required to:
 - Prepare an Intensification Planning Instrument (IPI)– a specific district plan change to enable greater building heights and density, primarily in residential and commercial areas. This plan change must be notified by 20 August 2022; and
 - Process the Intensification Planning Instrument through an Intensification Streamlined Planning Process - a new plan change process that is more streamlined and condensed than the standard plan change process.
7. *Note: The exact timing is not specified in the Housing Supply Act. Under this Act, the Minister for the Environment has the power to specify the timing, and the government has indicated that it will set timeframes so that councils can complete the plan change process by mid-2023.*

8. These new requirements have significant implications for the District Plan review. The following sections summarise the requirements of the IPI and Intensification Streamlined Planning Process. In addition, options for how the District Plan Review are identified and evaluated.

Requirements of the IPI and Intensification Streamlined Planning Process

9. As a result of the Housing Supply Act, territorial authorities are required to prepare an Intensification Planning Instrument (an IPI). An IPI is a change to a district plan for the specific purpose of:
- Incorporating specific Medium Density Residential Standards (MDRS) in the district plan; and
 - Giving effect to Policies 3, 4 and 5 of the National Policy Statement on Urban Development (NPS-UD).
10. The MDRS is a set of mandatory minimum permitted activity standards that must be applied to residential zones, with complimentary objectives and policies. The MDRS are included in Appendix 1 attached to the report. However, territorial authorities can modify the MDRS requirements to be more enabling of development by either omitting a standard or including more lenient rules that regulate the same effect as a standard.
11. However, there are exceptions where *qualifying matters* apply – see discussion below.
12. Policy 3 of the NPS-UD relates to enabling a minimum level of building heights and density of urban form in specific areas. Policy 4 relates to when these building heights and densities of urban form can be modified. These policies are included in Appendix 2 attached to the report. While IPIs also need to give effect to Policy 5 of the NPS-UD, it only applies to tier 2 and 3 local authorities (Hutt City Council is a tier 1 local authority), so is not covered in this report.
13. The requirements of an Intensification Planning Instrument are summarised in Table 1.

Table 1. Requirements of an Intensification Planning Instrument.	
Mandatory requirements	
All residential zones, except for large lot residential zones	Incorporate the Medium Density Residential Standards.
City centre zones	Enable building heights and density of urban form to realise as much development capacity as possible.
Metropolitan centre zones	Enable building heights and density of urban form to reflect demand for housing and business use in those locations, and in all cases building heights of at least 6 storeys.
Walkable catchments of:	Enable building heights of least 6 storeys.

<ul style="list-style-type: none"> Existing and planned rapid transit stops, The edge of city centre zones, and The edge of metropolitan centre zones. 	
In and adjacent to: <ul style="list-style-type: none"> Neighbourhood centre zones, Local centre zones, and Town centre zones. 	Enable building heights and density of urban form commensurate with the level of commercial activity and community services.
Optional provisions	
<ul style="list-style-type: none"> Provisions relating to financial contributions. Provisions to enable papakāinga housing. Related provisions, including objectives, policies, rules, standards, and zones, that support or are consequential on the MDRS or Policies 3, 4 and 5 of the NPS-UD. 	

14. Territorial authorities are only able to make these building height and density requirements less enabling of development to the extent necessary to accommodate qualifying matters specified in the RMA, which includes protection of outstanding natural features and landscapes, protection of historic heritage and management of significant risks from natural hazards. The list of qualifying matters is included in Appendix 3 attached to the report.

Intensification Streamlined Planning Process

15. Territorial authorities are required to process IPIs through a new Intensification Streamlined Planning Process.
16. This process is a more streamlined, condensed version of the standard (RMA, Schedule 1) plan change process. The Intensification Streamlined Planning Process involves the typical public notification, submission/further submission phases and a hearing. The key differences between the Intensification Streamlined Planning Process and the standard Schedule 1 plan change process include:
- Council must appoint an Independent Hearings Panel to hold hearings on the plan change. The Minister for the Environment may direct the number of panel members Council must appoint, and the level of experience and qualifications panel members must have.
 - The Independent Hearings Panel, following the hearing, will make recommendations on the plan change to Council. Council can choose to accept all recommendations, and if this is the case, the plan change will become operative.
 - If Council chooses to reject in part or in full the recommendations of the Independent Hearings panel, then the plan change must be referred to the Minister for the Environment, with reasons that the recommendation was rejected. The Minister must:

- i. Decide to accept or reject any or all recommendations referred to them;
 - ii. For any recommendation that they reject, decide whether to adopt an alternative recommendation that was referred to them; and
 - iii. Notify Council of their decisions, with reasons for making them.
 - d. While submissions are allowed, there is no right of appeal of any decision or action of the Minister or Council (although the right to judicial review is preserved).
17. While the Housing Supply Act does not specify a timeframe, the Minister for the Environment has the power to specify the timing. Based on indications from the government to date, this process is expected to be completed within approximately 12 months of notification of the IPI.

Implications for the District Plan Review

18. The narrow range of matters that can be included in the IPI is problematic for Hutt City Council. Prior to these new requirements, Council was working on a full review of the District Plan that would have implemented the NPS-UD alongside a range of other matters, such as responding to the risks from natural hazards, historic heritage, and many other district-wide matters.
19. The purpose of the District Plan review was to ensure the District Plan reflects the community's current aspirations and views, implement the full range of national and regional policy direction and requirements (including the National Planning Standards), and implement Council's strategic priorities. However, because of the new requirements, Council is now required to restructure the work programme for the District Plan Review to run at least two separate planning processes. Specifically:
- a. Intensification Streamlined Planning Process for an IPI, to incorporate the MDRS and give effect to the intensification policies of the NPS-UD; and
 - b. A separate plan change or full District Plan process to address parts of the District Plan that cannot be addressed through the IPI, including zones and district-wide chapters (such as natural hazards, historic heritage, tangata whenua).

Options

20. Given the new IPI requirements, officers have identified the following options for the District Plan Review:
- **Option 1:** An IPI plan change and a full new District Plan in parallel processes;
 - **Option 2:** An IPI plan change followed by full new District Plan;
 - **Option 3:** Notification of a plan change on qualifying matters (including natural hazards, historic heritage, sites of significance to

Māori), followed by an IPI plan change, followed by a plan change on the remaining parts of the District Plan; or

- **Option 4:** An IPI plan change and a plan change on qualifying matters (including natural hazards, historic heritage, sites of significance to Māori) in parallel processes, followed by a plan change on the remaining parts of the District Plan.

21. These four options are illustrated in Appendix 4 attached to the report and are described further below.

Option 1: An IPI plan change and a full new District Plan in parallel processes

22. This option would involve preparing an IPI as well as continuing with the full District Plan review. Council would prepare a proposed District Plan that would include all chapters of the District Plan excluding the provisions of the IPI. Both the intensification planning instrument and proposed District Plan would be notified in August 2022.

Option 2: An IPI plan change followed by full new District Plan

23. This option would involve preparing an IPI that would be notified by August 2022, with decisions made by August 2023. At the same time, work would continue on the full District Plan review, with a full proposed District Plan to be notified following the decisions on the IPI (after August 2023).

Option 3: Notification of a plan change on qualifying matters (including natural hazards, historic heritage, sites of significance to Māori), followed by an IPI plan change, followed by a plan change on the remaining parts of the District Plan

24. This option would involve preparation of a plan change on qualifying matters which relate to the IPI. These matters would include natural hazards, historic heritage and sites of significance to Māori. This plan change would be notified in advance of the IPI. The IPI and qualifying matters plan change would be prepared simultaneously to ensure they were integrated. The remaining chapters of the District Plan continue to be reviewed with an additional plan change for these remaining chapters to be notified on the completion of the earlier processes (after August 2023 at the earliest).

Option 4: An IPI plan change and a plan change on qualifying matters (including natural hazards, historic heritage, sites of significance to Māori), in parallel processes, followed by a plan change on the remaining parts of the District Plan

25. This option would involve preparation of a qualifying matters plan change and an IPI simultaneously to ensure that they are integrated. They two plan changes would be notified at the same time but would follow two separate processes. The remaining chapters of the District Plan not covered in these plan changes would continue to be reviewed, with an additional plan change for these remaining chapters to be notified on the completion of the earlier processes (after August 2023 at the earliest).

Option Assessment

26. To inform assessment of the merits of these options, officers have developed the following criteria:
- **Efficiency and effectiveness** – will the option enable compliance with the Housing Supply Act, RMA and National Planning Standards to be achieved in an efficient and effective manner?
 - **Capacity and capability** – does Council have sufficient financial and staff capacity and capability to effectively execute the option?
 - **Certainty** – does the option provide the community and plan users with sufficient certainty?
 - **Utility** – will the option improve the overall usability of the plan to users?
 - **Integration** – does the option encourage a timely, coherent approach to implementing the Housing Supply Act, undertaking the District Plan review, and aligning the National Planning Standards?
 - **Co-ordinated** – does the option provide an opportunity to implement and align the District Plan with Council priorities and strategies (such as the Spatial Plan, climate change initiatives and Integrated Transport Strategy), national and regional policy direction, and community aspirations and views?
27. Appendix 5 attached to the report includes an assessment of the relative advantages, disadvantages and risks of the four identified options, based on these criteria.

Recommended option – Option 2

28. Option 2 is recommended.
29. All four options have a similar level of efficiency and effectiveness. However, Option 2 would have more achievable timelines for the District Plan review.
30. While all the options are more complex than the current work programme (a single proposed District Plan notified by August 2022, going through a single plan process), Option 2 is more straight forward than the other options and as a result, it would be easier for potential submitters and plan users to follow the District Plan Review and be involved in.
31. There are disadvantages associated with Option 2, particularly around Council's capacity to undertake the work. However, this is an issue with all four options (with Option 2 the most achievable from a capacity perspective) and is a result of the overall magnitude of the District Plan Review.
32. Option 2 would result in a delay in some parts of the review, which in turn would delay some of the improvements that could be made to the District Plan through the review. This delay is likely to be in the order of 12 to 18 months.

Next Steps

33. If the recommended option is supported by the Subcommittee, the next steps for the District Plan review will be:
- Updating people who have expressed an interest in the District Plan Review on the changes (by the end February 2022);
 - Mana whenua, community and stakeholder engagement on the IPI, including the identified options (from February to April 2022);
 - Reporting back to the Subcommittee on the outcomes of the engagement, and seeking further direction from the Subcommittee on what to include in the IPI (by the end of May 2022); and
 - Preparation of the IPI for public notification (by 20 August 2022).
34. In addition, work would continue on the other parts of the District Plan review, in preparation for the new District Plan in 2023/2024.

Engagement

35. Regardless of how the District Plan review progresses, it is expected that there would need to be engagement with iwi, the community and other stakeholders for each part of the review.
36. If the recommended option is supported by the Subcommittee, engagement on the IPI would be undertaken over the next few months. This engagement would focus on:
- Communicating the mandatory requirements of the IPI;
 - Outlining where there are options of what Council can include in its IPI; and
 - Receiving input from iwi, the community and other stakeholders on these options.
37. Ongoing engagement would occur on the wider District Plan Review, effectively addressing the parts of the review that are outside the scope of the IPI. The purpose of this engagement would be similar to the engagement on the IPI. This engagement will make use of the draft District Plan chapters that have already been prepared as part of the District Plan Review.

Climate Change Impact and Considerations

38. The matters addressed in this report have been considered in accordance with the process set out in Council's Climate Change Considerations Guide.
39. As discussed above, intensification enabled through an IPI can be restricted to address qualifying matters specified in the RMA and NPS-UD. Management of significant risks from natural hazards is one of the qualifying matters.
40. Climate change will increase the magnitude and/or likelihood of flooding, coastal inundation and tsunami hazard events. As a result, the impacts of

climate change should be taken into account when considering how the IPI should address natural hazard risk.

41. Other aspects of how the District Plan can address climate change would need to be addressed through the later plan change. While this would result in a delay to the District Plan addressing some aspects of climate change, it would enable Council to take into account some legislative and strategic direction that are currently being developed, including central governments Emissions Reduction Plan (expected to be published by 31 May 2022) and the Climate Adaptation Act (being developed by central government as part of their Resource Management Reform program).

Legal Considerations

42. The key legal consideration for the District Plan Review is the necessity for Council to meet the requirements of the RMA, as amended by the Housing Supply Act. Key requirements of the RMA are:
 - Territorial authorities must review all sections of their district plans;
 - Any proposed changes to a district plan resulting from a review, and any parts of the plan that a council proposes to retain unchanged, must be publicly notified and processed through the plan making processes set out in the RMA;
 - Tier 1 territorial authorities must notify an IPI by 20 August 2022, and the IPI must be processed through an Intensification Streamlined Planning Process; and
 - District plans must give effect to:
 - Any national policy statement;
 - Any New Zealand coastal policy statement;
 - Any national planning standards; and
 - Any regional policy statement.

Financial Considerations

Financial implications for District Plan review budget

43. As the amended work programme would extend the overall length of the District Plan review, and involve a second formal plan change process, it is likely that amending the District Plan review work programme would increase the overall financial costs of the District Plan review.
44. The additional cost would mostly be associated with:
 - Additional community and stakeholder engagement;
 - Preparation of evaluation reports; and
 - Formal submission and hearing processes.

45. However, the new requirements for an IPI may result in some cost savings as the IPI cannot be appealed to the Environment Court.
46. The current District Plan review budget for the 2021/22 financial year is likely to be sufficient to prepare the IPI and continue with the District Plan review. However, depending on the number and nature of submissions, including matters raised in submissions on the IPI, additional budget may be required for the 2022/23 financial year. With the extended District Plan review work programme, additional budget may be required for the 2024/25 and 2025/26 financial years to complete the District Plan review. This additional budget would be calculated for the 2024/25 Long Term Plan.

Financial implications for iwi, the community and other stakeholders

47. There may also be increase financial costs for iwi, the community and other stakeholders if they choose to be involved in more than one plan change process. Additional costs would be a result of being involved in additional engagement, submitting on an additional plan change and presenting at an additional hearing.

Appendices

No.	Title	Page
1	Medium Density Residential Standards	
2	Policy 3 and 4 of the National Policy Statement on Urban Development 2020	
3	Qualifying matters from Section 77I of the Resource Management Act 1991	
4	Illustration of Options	
5	Options assessment	

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