

# PLANNING NEWSLETTER



September 2022

## COUNCIL RESPONSES TO THE NPS-UD AND MDRS

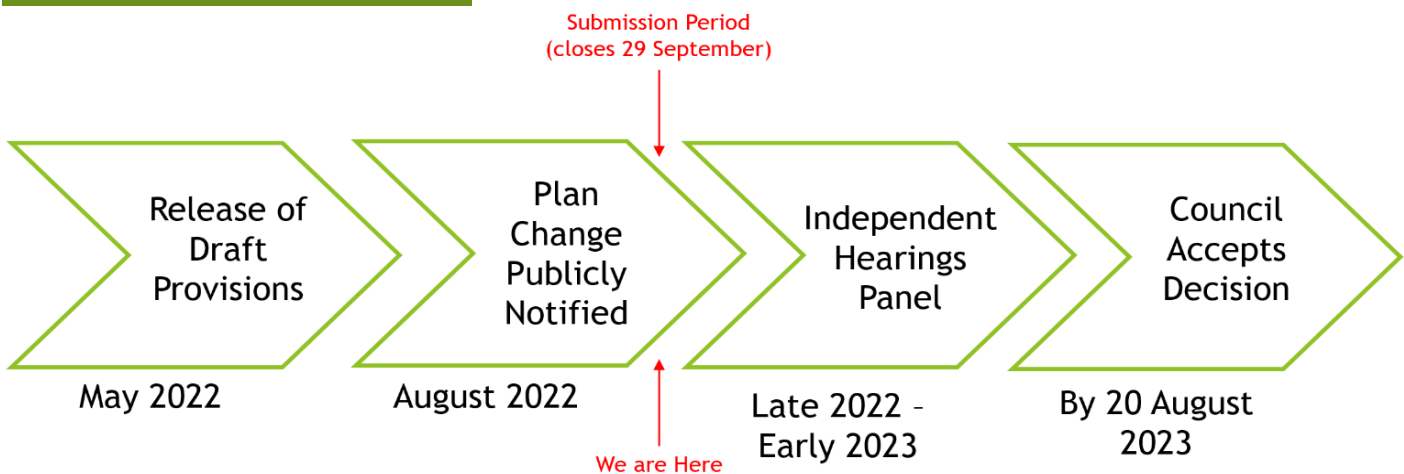
On 18<sup>th</sup> August, Auckland Council released its proposed maps and text incorporating the required changes into the Auckland Unitary Plan (AUP). A plan change map has also been released, which can be viewed online [here](#).

## COUNCIL RESPONSES TO THE NPS-UD AND MDRS

Auckland Council have notified Plan Change 78 (PC78), in response to the National Policy Statement on Urban Development (NPS-UD) and more recently the government's directives to introduce Medium Density Residential Standards (MDRS) as part of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021.

Submissions on the Plan Change are open now, until 29 September 2022. Anyone can make an online submission via the Council website, however for sites that seek to be included in a different zone or excluded from a current constraint or Qualifying Matter, we recommend a Planner prepare the submission to provide further investigation and detailed assessment to support the changes sought.

## PLAN CHANGE TIMELINE



Otherwise, Minister Must Make Decisions by March 2024

MHU Zone Proposed Standards – Developments Containing up to Three Dwellings	
Number of Dwellings per Site	There must be no more than three dwellings per site
Height	Maximum <b>11m</b> (+ 1m for pitched roof)
Height in relation to boundary	Maximum <b>4m + 60 degrees</b> <ul style="list-style-type: none"> <li>• Previous exemptions for gable ends / dormers / roof have been deleted</li> <li>• Applies where adjoining an Open Space Zone</li> <li>• Application from far side of RoW remains</li> <li>• Alternative HIRB provision deleted</li> </ul>
Yards	<ul style="list-style-type: none"> <li>• Front <b>1.5m</b></li> <li>• Side / Rear 1m</li> <li>• Riparian, Lakeside and Coastal setback requirements remain unchanged</li> </ul>
Building coverage	Maximum <b>50%</b> of the net site area Where a site contains a Significant Ecological area, coverage is further restricted
Landscaped area	<b>Minimum 20%</b>
Outlook space	Minimum <b>4m x 4m</b> (principal living room) Minimum 1m x 1m (all other habitable rooms) Other shape/location requirements remain unchanged
Outdoor living space (one per unit)	Minimum 20m <sup>2</sup> for a ground floor space, with minimum dimension of <b>3m</b> Minimum 8m <sup>2</sup> for a balcony, patio or roof terrace, with min dimension of 1.8m Must be accessible from the unit <b>May be grouped into a larger communal space</b>
Windows to street	Minimum 20% glazing on street facing-façade for residential units facing the street.
Maximum Impervious Area, Daylight, Fences and Walls, and Minimum Dwelling Size	Current requirements remain unchanged, refer to AUP text. <i>(Note: These requirements sit outside of the MDRS which were set as a minimum set of standards, however Council have chosen to keep them in place.)</i>

## WHAT THIS MEANS FOR YOU

Most residential properties in urban areas across the Auckland Region will be up zoned and are able to apply to the MDRS right now. This will enable medium-density developments of three dwellings up to three stories as a permitted activity. The development standards will also be changing, allowing for more built form on residential sites.

## MDRS STANDARDS

This table shows Council's overview of key standards to be implemented - most notably, the increased height, HIRB and building overage allowances will enable larger buildings and/or more dwellings to be constructed on residential sites.

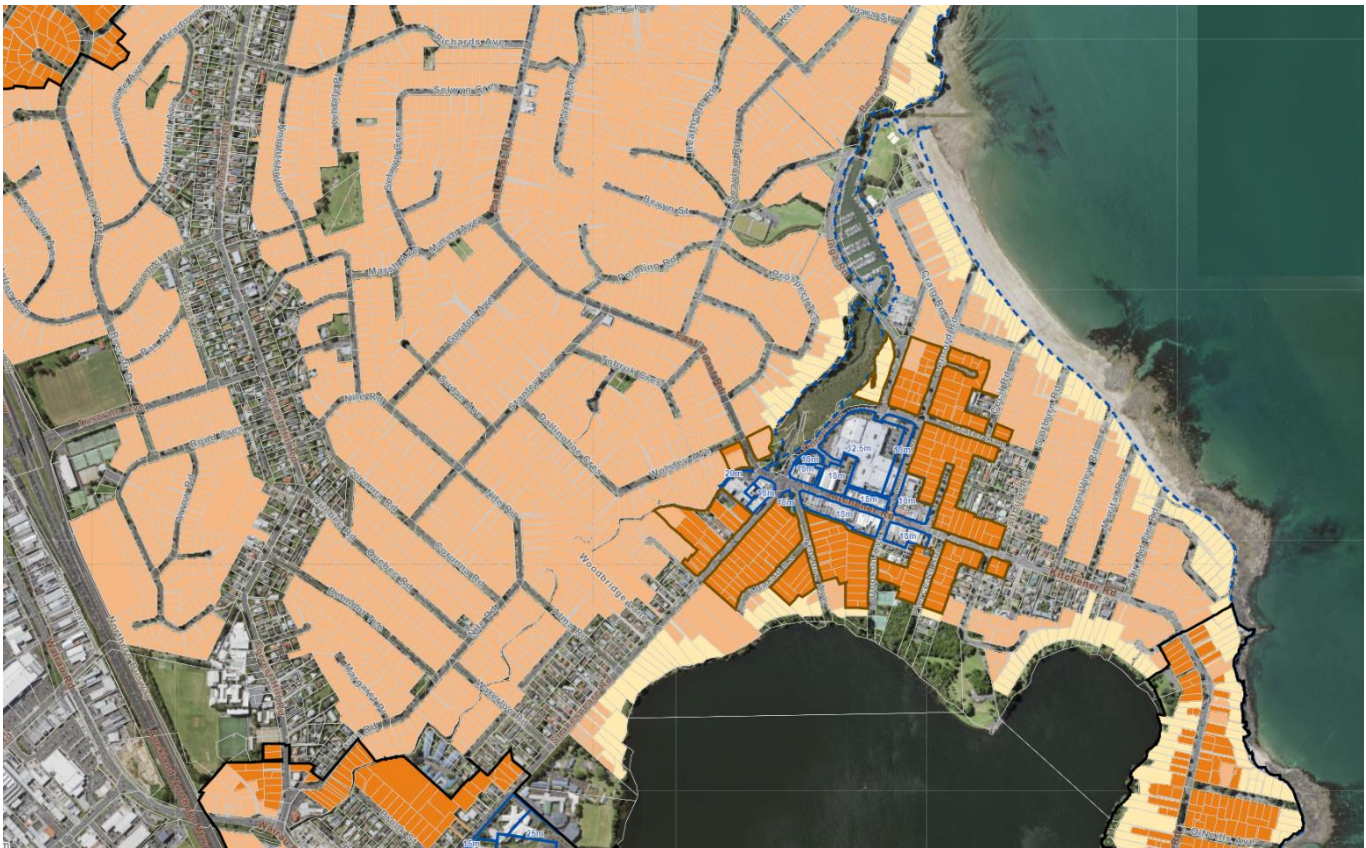
Note: new design standards are also proposed (being: Deep Soil Area and Canopy Tree; Safety and Privacy Buffer from Private Pedestrian and Vehicle Accessways, and Residential Waste Management) but these are outside of the MDRS and do not have immediate legal effect. Similarly, additional standards requiring adequate WW and SW servicing for dwellings, sit outside of the MDRS.

## KEY CHANGES SINCE COUNCIL'S DRAFT VERSION








The Council released a draft of its proposed Plan Change in May 2022, including an online map that identified key zone changes. However, there are a number of key changes that have been made between this draft version, including:

- The proposed residential zones have been finalized, with a **new Low Density Residential Zone added**, typically used in place of the Single House Zone and Mixed Housing Suburban Zone, within larger urban areas;
- “Infrastructure” constraints have been **added as new Qualifying Matters**, relating to: Transport, Wastewater, stormwater, and Water.
- Proposed changes to the AUP text have also been released, including the zone chapters with revised standards (as per the above table). Associated changes have also been made to the overlays, Auckland-wide and precinct rules.

## PROPOSED UPZONING EXAMPLE - MILFORD MAPS



### Residential Zones

-  Residential - Rural and Coastal Settlement Zone - no changes proposed by Plan Change 78
-  Residential - Large Lot Zone
-  Residential - Single House Zone - not a relevant residential zone
-  Residential - Low Density Residential Zone
-  Residential - Mixed Housing Suburban Zone - not a relevant residential zone
-  Residential - Mixed Housing Urban Zone
-  Residential - Terrace Housing and Apartment Building Zone

This Plan Change map shows proposed zone changes across sites - in Milford, the majority of sites are being up zoned to *Mixed Housing Suburban Zone* (shown in light orange) or *Terrace Housing and Apartment Building Zone* (shown in dark orange), resulting in increased development capacity.

## WHICH SITES ARE EXCLUDED FROM THESE CHANGES

While the Government directives have sought to implement the MDRS in all residential areas, there are mechanisms in place to protect specific areas that are more sensitive to intensification. By identifying these select “Qualifying Matters” (QM), the protection of these features in essence will override the ability to apply the MDRS. Council have said that they will not apply (or will modify) the MDRS on sites where these features (QM) apply. These features are usually linked with heritage or natural features, viewshafts, natural hazards, infrastructure corridors or constraints, and are usually linked to the overlays or other mapped features already captured by the AUP. Some precincts have also been noted as a QM.

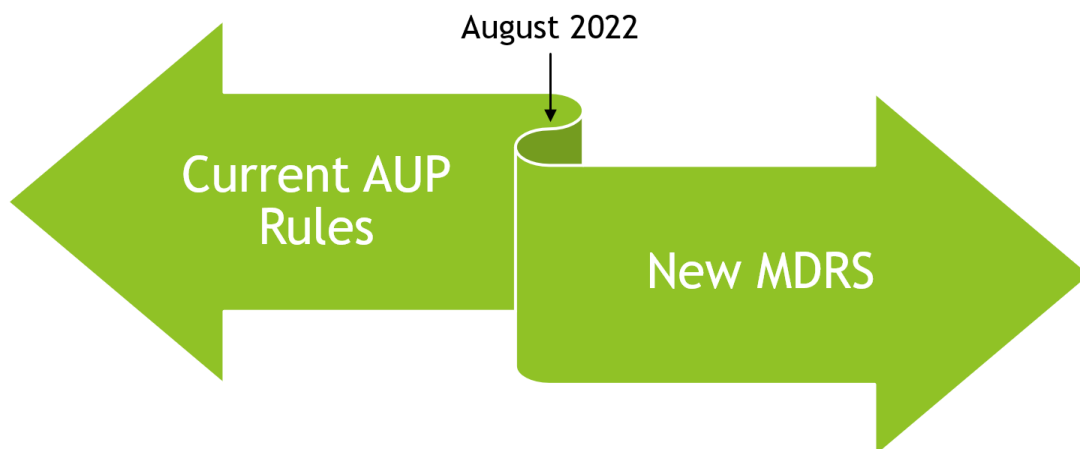
As a result, sites which have a QM will not be up zoned and/or will have a QM applied that restricts development. In order to check what rules apply to your site:

1. Visit the Council’s Plan Change Maps.
2. Search for the address using the search function.
3. Make sure to click on the site, as a text box will pop up with all the relevant details/notations.
4. The proposed zone will be listed.
5. Any identified Qualifying Matters will be listed.

Council have recently advised that a site with any listed QM cannot use the MDRS with immediate legal effect, meaning that the up-zoning and new rules won’t be live until the end of the Plan Change (March 2024).

However, the objectives and policies set out in the NPS-UD do still have immediate legal effect, so applications made under both operative AUP rules and proposed MDRS are supported by higher-level directives which Council must consider now.

## IMMEDIATE LEGAL EFFECT - RESIDENTIAL ZONE RULES



- Cease to have effect if all MDRS are met
- Must revert back to these rules if MDRS cannot be complied with, or if the site has a Qualifying Matter
- Can be applied from date of Notification
- Only rules that need to be considered if all permitted standards are met
- Sites with a Qualifying Matter cannot use the MDRS

## TO PUT IT SIMPLY

The government has told Council to relax planning standards

New MDRS apply to urban areas in Auckland, where sites are upzoned

Some areas with land constraints or special features are being excluded

Current AUP rules and MDRS may both remain applicable until finalised

## UPDATES FROM CIVIX

Over the past few months, Civix Directors Nick and Duncan and Principal Planner Jessica, have presented to hundreds of agents, professionals and property owners across Auckland and online, about the changes to the Resource Management Act and how this affects planning rules and practice.

With a number of sites affected by Auckland Council's last minute alterations to the maps, including listed "Qualifying Matters" that will push out the timeframes for the new Medium Density Residential Standards to take effect, the processes and interpretations from Council are likely to evolve as the Plan Change progresses, so it is more important than ever to understand these changes, and how they will affect developments across the region.

If you haven't yet attended one of our presentations, or have attended and are keen to hear the latest updates, please get in touch with our team. These planning sessions are a great opportunity to ask questions and discuss what is happening in the planning field, both in Auckland and across the country. The feedback to these has been overwhelmingly positive with follow up presentations booked to keep people informed on these changes and other planning related matters.

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