
**RECOMMENDATIONS REPORT: PART 8 - APPENDIX E
STATUTORY REQUIREMENTS FOR DISTRICT PLAN**

Colonial Vineyard Ltd v Marlborough District Council [2014] NZEnvC 55 at [17] (bolded emphasis in the original):¹

A. General requirements

1. A district plan (change) should be designed to **accord with**,² and assist the territorial authority to **carry out** – its functions³ so as to achieve the purpose of the Act.⁴
2. The district plan (change) must be prepared **in accordance with** any regulation⁵ (there are none at present) and any direction given by the Minister for the Environment;⁶
3. When preparing its district plan (change) the territorial authority **must give effect to** any national policy statement or New Zealand Coastal Policy Statement and any national planning standard.⁷
4. When preparing its district plan (change) the territorial authority shall:
 - (a) have regard to any proposed regional policy statement;⁸
 - (b) give effect to any operative regional policy statement.⁹
5. In relation to regional plans:
 - (a) the district plan (change) must **not be inconsistent** with an operative regional plan for any matter specified in section 30(1) or a water conservation order;¹⁰ and
 - (b) the district plan (change) must have regard to any proposed regional plan on any matter of regional significance etc.¹¹
6. When preparing its district plan (change) the territorial authority must also:
 - **have regard to**¹² any relevant management plans and strategies under other Acts, ~~and to~~ any relevant entry in the New Zealand Heritage List/Rarangi kōrero, Historic Places Register and to various fisheries regulations and any relevant project area and project objectives (if section 98 of the Urban Development Act 2020 applies) to the extent that their content has a bearing on resource management issues of the district, and to consistency with plans and proposed plans of adjacent territorial authorities,¹³ and to any emissions reduction plan and any national adaptation plan made under the Climate Change Response Act 2002;¹⁴
 - **take into account** any relevant planning document recognised by an iwi authority¹⁵; and

¹ Provided by Council in [Legal Submissions of Council - Residential Zones, 26 October 2023](#)

² RMA section 74(1).

³ As described in RNA section 31.

⁴ RMA sections 72 and 74(1).

⁵ RMA section 74(1).

⁶ RMA section 74(1), added by section 45(1) of the Resource Management Amendment Act 2005

⁷ RMA section 75(3).

⁸ RMA section 74(2)(a)(i).

⁹ RMA section 75(3)(c), as substituted by section 46 of the Resource Management Amendment Act 2005

¹⁰ RMA section 75(4), as substituted by section 46 of the Resource Management Amendment Act 2005

¹¹ RMA section 74(2)(a)(ii).

¹² RMA section 74(2)(b).

¹³ RMA section 74(2)(c).

¹⁴ RMA section 74(2)(d) and (e).

¹⁵ RMA section 74(2A).

- not have regard to trade competition¹⁶ or the effects of trade competition.
7. The formal requirement that a district plan (change) must¹⁷ also state its objectives, policies and the rules (if any) and may¹⁸ state other matters.
- B. Objectives [the section 32 test for objectives]
8. Examine the extent to which the ~~Each proposed~~ objectives of the proposal being in a district plan (change) **is to be evaluated** by the extent to which it is ~~are~~ the most appropriate way to achieve the purpose of the Act.¹⁹
- C. Policies and methods (including rules) [the section 32 test for policies and rules]
9. The policies are to **implement** the objectives, and the rules (if any) are to **implement** the policies.²⁰
 10. Examine whether the proposed provisions (the policies, rules or other methods) ~~Each proposed policy or method (including each rule) is to be examined~~ are the most appropriate way to achieve the purpose of the district plan change and the objectives of the District Plan by²¹~~having regard to its efficiency and effectiveness, as to whether it is the most appropriate method for achieving the objectives of the district plan~~ **taking into account:**
 - (i) identifying other reasonably practicable options for achieving the objectives;²² and
 - (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives, including by:²³
 - (1) identifying and assessing the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for:
 - A. Economic growth that are anticipated to be provided or reduced;²⁴ and
 - B. Employment that are anticipated to be provided or reduced;²⁵ and
 - (2) if practicable, quantifying the benefits and costs;²⁶ and
 - (3) ~~proposed policies and methods (including rules); and assessing the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods;~~²⁷ and

¹⁶ RMA section 74(3), as amended by section 58 of the Resource Management (Simplifying and Streamlining) Act 2009.

¹⁷ RMA section 75(1).

¹⁸ RMA section 75(2).

¹⁹ RMA section 74(1) and section 32(1)(a).

²⁰ RMA section 75(1)(b) and (c) (also section 76(1)).

²¹ RMA section 32(1)(b).

²² RMA section 32(1)(b)(i).

²³ RMA section 32(1)(b)(ii).

²⁴ RMA section 32(2)(a)(i).

²⁵ RMA section 32(2)(a)(ii).

²⁶ RMA section 32(2)(b).

²⁷ RMA section 32(2)(c).

- (iii) *if a national environmental standard applies and the proposed ~~rule will~~ impose a greater prohibition or restriction than that, then whether that greater prohibition or restriction is justified in the circumstances.*²⁸

D. Rules

11. *In making a rule the territorial authority must **have regard to the actual or potential effect of activities on the environment***²⁹.
12. *Rules have the force of regulations*³⁰.
13. *Rules may be made for the protection of property from the effects of surface water, and these may be more restrictive*³¹ *than those under the Building Act 2004.*
14. *There are special provisions for rules about contaminated land*³².
15. *There must be no blanket rules about felling of trees*³³ *in any urban environment*³⁴.

E. Other statutes

16. *Finally Territorial authorities may be required to comply with other statutes.*

F. Key features of an IPI

17. *The matters that may be included in an IPI are described in section 80E of the RMA. Unlike a standard plan change or variation, the IPIs:*
 - (i) *must contain the mandatory matters set out in section 80E;*
 - (ii) *may contain the discretionary matters set out in section 80E; and*
 - (iii) *may not be used for any purpose other than the uses specified in section 80E.*³⁵

G. Specific requirements relating to Medium Density Residential Standards (MDRS)

18. *Every relevant residential zone of a specified territorial authority must have the MDRS incorporated into that zone*³⁶ *except to the extent that a qualifying matter is accommodated.*³⁷

H. Specific requirements relating to Policy 3 of the NPS-UD

19. *Every residential zone in an urban environment of a tier 1 specified territorial authority must give effect to policy 3 in that zone,*³⁸ *and every tier 1 specified territorial authority must ensure that the provisions in its district plan for each urban non-residential zone within the authority's urban environment give effect to*

²⁸ RMA section 32(4), added by section 13(3) Resource Management Amendment Act 2005.

²⁹ RMA section 76(3).

³⁰ RMA section 76(2).

³¹ RMA section 76(2A).

³² RMA section 76(5) as added by section 47 Resource Management Amendment Act 2005 and amended in 2009.

³³ RMA section 76(4A) as added by the Resource Management (Simplifying and Streamlining) Amendment Act 2009.

³⁴ RMA section 76(4B) — this 'Remuera rule' was added by the Resource Management (Simplifying and Streamlining) Amendment Act 2009.

³⁵ RMA section 80G(1)(b).

³⁶ RMA section 77G(1).

³⁷ RMA section 77G(6).

³⁸ RMA section 77G(2).

the changes required by policy 3³⁹ except to the extent that a qualifying matter is accommodated.⁴⁰

I. Discretionary amendments under the Amendment Act.

20. An IPI may also amend or include the following provisions.⁴¹

- (i) provisions relating to financial contributions if the Council chooses to amend its district plan under section 77T;
- (ii) provisions to enable papakāinga housing in the district.
- (iii) related provisions, including objectives, policies, rules, standards and zones, that support or are consequential on the MDRS or policies 3 and 4 of the NPS-UD. "Related provisions" expressly includes (but is not limited to) provisions that relate to district-wide matters, earthworks, fencing, infrastructure, qualifying matters, stormwater management and subdivision of land.

J. Additional requirements for qualifying matters

21. In relation to a proposed amendment to accommodate a qualifying matter,⁴² the specified territorial authority must:

- (i) demonstrate why the territorial authority considers—
 - (1) that the area is subject to a qualifying matter;⁴³ and
 - (2) in residential zones that the qualifying matter is incompatible with the level of development permitted by the MDRS (as specified in Schedule 3A of the RMA) or policy 3 for that area⁴⁴ or in non-residential zones that the qualifying matter is incompatible with the level of development as provided for by policy 3 for that area,⁴⁵ and
- (ii) assess the impact that limiting development capacity, building height, or density (as relevant) will have on the provision of development capacity,⁴⁶ and
- (iii) assess the costs and broader impacts of imposing those limits.⁴⁷
- (iv) describe in relation to the provisions implementing the MDRS—
 - (1) how the provisions of the district plan allow the same or a greater level of development than the MDRS,⁴⁸
 - (2) how modifications to the MDRS as applied to the relevant residential zones are limited to only those modifications necessary to accommodate qualifying matters and, in particular, how they apply to

³⁹ RMA section 77N(2).

⁴⁰ RMA sections 77G(6) and 77N(3)(b).

⁴¹ RMA section 80E(1)(b).

⁴² As defined in sections RMA section 77I(a)-(i) and 77O(a)-(i).

⁴³ RMA sections 77J(3)(a)(i) and 77P(3)(a)(i).

⁴⁴ RMA section 77J(3)(a)(ii).

⁴⁵ RMA section 77P(3)(a)(ii).

⁴⁶ RMA sections 77J(3)(b) and 77P(3)(b).

⁴⁷ RMA sections 77J(3)(c) and 77P(3)(c).

⁴⁸ RMA section 77J(4)(a).

any spatial layers relating to overlays, precincts, specific controls, and development areas, including—

A. any operative district plan spatial layers; and

B. any new spatial layers proposed for the district plan.⁴⁹

K. Alternative process for existing qualifying matters

22. When considering existing qualifying matters,⁵⁰ the specified territorial authority may:

(i) identify by location (for example, by mapping) where an existing qualifying matter applies;⁵¹

(ii) specify the alternative density standards proposed for the area or areas identified;⁵²

(iii) identify why the territorial authority considers that 1 or more existing qualifying matters apply to the area or areas;⁵³

(iv) describe in general terms for a typical site in those areas identified the level of development that would be prevented by accommodating the qualifying matter, in comparison with the level of development that would have been permitted by the MDRS and policy 3 in residential zones⁵⁴ and by policy 3 in non-residential zones.⁵⁵

L. Further requirements for 'other' qualifying matters under section 77I(j)/77O(j)

23. A matter is not a qualifying matter under section 77I(j)/77O(j) unless an evaluation report:

(i) identifies for residential zones the specific characteristic that makes the level of development provided by the MDRS (as specified in Schedule 3A) or as provided for by policy 3 inappropriate in the area⁵⁶ or for non-residential zones identifies the specific characteristic that makes the level of urban development required within the relevant paragraph of policy 3 inappropriate;⁵⁷ and

(ii) justifies why that characteristic makes that level of development inappropriate in light of the national significance of urban development and the objectives of the NPS-UD;⁵⁸ and

(iii) includes a site-specific analysis that—

(1) identifies the site to which the matter relates;⁵⁹ and

⁴⁹ RMA section 77J(4)(b)

⁵⁰ Being a qualifying matter referred to in RMA sections 77I(a)-(i) and 77O(a)-(i) that is operative in the relevant district plan when the IPI is notified

⁵¹ RMA section 77K(1)(a)/77Q(1)(a)

⁵² RMA section 77K(1)(b)/77Q(1)(b)

⁵³ RMA section 77K(1)(c)/77Q(1)(c)

⁵⁴ RMA section 77K(1)(d).

⁵⁵ RMA section 77Q(1)(d).

⁵⁶ RMA section 77L(a).

⁵⁷ RMA section 77R(a)

⁵⁸ RMA sections 77L(b) and 77R(b)

⁵⁹ RMA sections 77L(c)(i) and 77R(c)(i)

- (2) evaluates the specific characteristic on a site specific basis to determine the geographic area where intensification needs to be compatible with the specific matter;⁶⁰ and
- (3) evaluates an appropriate range of options to achieve the greatest heights and densities permitted by the MDRS (as specified in Schedule 3A)⁶¹ or as provided for by policy 3 ⁶²while managing the specific characteristics.

M. key modifications made by the Amendment Act to the RMA statutory tests

24. The requirement to give effect to the regional policy statement under section 75(3)(c) and the matters to be considered as part of the section 32 evaluation. In particular:
- (i) Section 77G(8) provides that the requirement to incorporate the MDRS into relevant residential zones prevails over the requirement to give effect to a regional policy statement, in the event of any inconsistency.
 - (ii) Sections 77J, 77K and 77L (relating to residential zones) and sections 77P, 77Q and 77R (relating to non-residential zones) set out additional requirements for the evaluation of QMs under section 32. For instance, the evaluation report must assess the impact that limiting development capacity, building height, or density (as relevant) in accordance with a QM will have on the provision of development capacity, as well as the costs and broader impacts of imposing those limits via a QM.

⁶⁰ RMA sections 77L(c)(ii) and 77R(c)(ii)

⁶¹ RMA section 77L(c)(iii)

⁶² RMA sections 77L(c)(iii) and 77R(c)(iii)