

Wellington City District Plan – Omnibus Plan Change

Amend Notification Clauses within SUB-R1

Scope of Proposed Change

To amend SUB-R1 to simplify and clarify the notification clauses within this rule.

Background

SUB-R1 (Subdivision for the purpose of the construction and use of residential units in the Medium Density Residential Zone or High Density Residential Zone) gives effect to clause 3 of Schedule 3A of the RMA, which requires that: *‘Subdivision requirements must (subject to [section 106](#)) provide for as a controlled activity the subdivision of land for the purpose of the construction and use of residential units in accordance with [clauses 2](#) and [4](#)’* of this schedule.

Clause 5(3) of the schedule requires that: *‘Public and limited notification of an application for a subdivision resource consent is precluded if the subdivision is associated with an application for the construction and use of residential units described in subclause (1) or (2)’* [of clause 5].

Consequently, SUB-R1 includes notification clauses where a subdivision creates allotments that will contain residential buildings that meet the applicable building standards for the High Density Residential Zone (HRZ) or Medium Density Residential Zone (MRZ). These are shown below:

Notification status:

Applications under this rule are precluded from being publicly notified or limited notified if the subdivision is only associated with residential units that fully comply with density standards MRZ-S1, MRZ-S2, MRZ-S3, MRZ-S4, MRZ-S5, MRZ-S6, MRZ-S7 and MRZ-S8 in the Medium Density Residential Zone; or HRZ-S1, HRZ-S3, HRZ-S4, HRZ-S5, HRZ-S6, HRZ-S7, HRZ-S8 and HRZ-S9 in the High Density Residential Zone.

Applications under this rule are precluded from being publicly or limited notified if the subdivision is associated with an application for the construction and use of 4 or more residential units that comply with density standards MRZ-S1, MRZ-S2, MRZ-S3, MRZ-S4, MRZ-S5, MRZ-S6, MRZ-S7 and MRZ-S8 in the Medium Density Residential Zone; or HRZ-S1, HRZ-S3, HRZ-S4, HRZ-S5, HRZ-S6, HRZ-S7, HRZ-S8 and HRZ-S9 in the High Density Residential Zone.

Applications under this rule are precluded from being publicly notified if the subdivision is associated with an application for the construction and use of 1, 2, or 3 residential units that do not comply with 1 or more of density standards MRZ-S1, MRZ-S2, MRZ-S3, MRZ-S4, MRZ-S5, MRZ-S6, MRZ-S7 and MRZ-S8 in the Medium Density Residential Zone; or HRZ-S1, HRZ-S3, HRZ-S4, HRZ-S5, HRZ-S6, HRZ-S7, HRZ-S8 and HRZ-S9 in the High Density Residential Zone.

The Council’s Resource Consents Team has identified that these notification clauses are overly prescriptive and may result in unintended outcomes, such as by requiring a development to *‘fully comply’* with the density standards listed when not all are applicable, and have requested that these be reviewed. Additionally, it has been raised that the correct place to determine notification of non-compliance with the building standards is under the applicable land use chapters, rather than the subdivision chapter.

This issue was previously addressed in the Section 42A Report¹ for the Subdivision chapter, addressed within Hearing Stream 5. The Council’s Planning Officer advised that the clauses give effect to clause 5(3) of Schedule 3A.

¹ [Section 42A Report: Subdivision](#), para 353.

It is noted that the General Approach chapter in the 'How the Plan Works' section of the District Plan states the following:

An application for resource consent for a controlled activity will be considered without public or limited notification or the need to obtain written approval from affected parties unless:

- 1. Otherwise specified by a rule applying to the particular activity; or*
- 2. The Council decides that special circumstances exist under Step 4 of section 95 or section 95B of the RMA.*

This aligns with the requirements of clause 5(3) of Schedule 3A of the RMA, as well as the overarching requirements of sections 95A(5)(b)(i) and 95B(6)(b), which preclude public and limited notification of resource consents for controlled activities (noting that 95B(6)(b) does not apply to subdivision).

Assessment of Options

Relevant Options

For the purposes of this evaluation, the following options have been considered:

- **Option 1:** Retain the status quo.
- **Option 2:** Delete the existing notification clauses under SUB-R1 and replace these with a new notification clause as follows: *Public and limited notification is precluded where an allotment created under the subdivision is capable of accommodating residential unit(s) that would be permitted under the HRZ or MRZ standards that apply.*
- **Option 3:** Delete the existing notification clauses under SUB-R1 and replace these with a generalised notification preclusion, ie: *Applications under this rule are precluded from being publicly or limited notified.*

Cost/Benefit Assessment

The costs and benefits of Options 1 to 3 are detailed in the table below.

Option 1: Retain the status quo

The intent of the existing notification clauses is to align SUB-R1 with clause 5(3) of Schedule 3A and it largely achieves this outcome. However, the existing wording has introduced uncertainty as to whether or not the notification clause can be achieved. This has resulted in additional costs associated with the preparation and assessment of resource consent applications made under this rule. Retaining the status quo will retain this uncertainty and the associated economic costs.

The effects of a subdivision are typically generated by the land use activities and not the subdivision of land and buildings. Therefore, there are negligible environmental, social or cultural costs or benefits associated with retaining the status quo.

Effectiveness and efficiency

Option 1 is not an efficient or effective method of achieving clause 5(3) of Schedule 3A and creates inefficiencies for Plan users.

Overall evaluation of Option 1

Option 1 is not recommended.

<p>Option 2: Delete the existing notification clauses under SUB-R1 and replace these with a new notification clause as follows: <i>Public and limited notification is precluded where an allotment created under the subdivision is capable of accommodating residential unit(s) that would be permitted under the HRZ or MRZ standards that apply</i></p> <p>This option would retain the intent of the existing notification clauses, by precluding limited or public notification where the residential building standards are met. It simplifies the wording and removes the requirement to ‘<i>fully comply</i>’ with the building standards, as only the applicable standards would need to be met.</p> <p>There are negligible environmental, economic social or cultural costs or benefits associated with this option. However, this option does not remove all uncertainty or expense as it will still be necessary for both the applicant’s consultant and the Council’s planner to undertake an assessment to identify whether the standards are met. Note that this assessment is necessary in order to determine whether or not land use consent is required, so is unlikely to create significant expense.</p> <p><i>Effectiveness and efficiency</i></p> <p>Option 2 is considered to be an effective and efficient option to address the issue as it clarifies the wording of the notification clauses while retaining their original intent. However, it is not considered to be the most effective option as existing uncertainty and costs will be retained.</p> <p><i>Overall evaluation of Option 2</i></p> <p><u>Option 2 is not recommended.</u></p>	
<p>Option 3: Delete the existing notification clauses under SUB-R1 and replace these with a generalised notification preclusion, ie: <i>Applications under this rule are precluded from being publicly or limited notified.</i></p> <p>This option would retain the intent of the existing notification clauses and provide alignment with clause 5(3) of Schedule 3A. It would also align with the notification clauses under SUB-R2.2, SUB-R5.1 and SUB-R5.2 and be consistent with the information in the 'How the Plan Works' section of the District Plan.</p> <p>Noting that the effects of the land use consent would be assessed if land use consent was also required, and that the land use rules have notification clauses that would come into play if the building standards were/were not met, there is no need to require either limited or public notification with respect to the subdivision.</p> <p>There are negligible environmental, economic social or cultural costs or benefits associated with this option. Additionally, this option removes the uncertainty and expense associated with Options 1 and 2 above.</p> <p><i>Effectiveness and efficiency</i></p> <p>Option 3 is considered to be an effective and efficient option to address the issue as it achieves clause 5(3) of Schedule 3A of the RMA, provides consistency within the subdivision rules and removes uncertainty and costs associated with the preparation and assessment of subdivision applications.</p>	<p>Benefits</p> <p><i>Environmental</i></p> <ul style="list-style-type: none"> Helps avoid d post-developo <p><i>Economic</i></p> <ul style="list-style-type: none"> Cost of obtain cost savings la of easements legal disputes <p><i>Social</i></p> <ul style="list-style-type: none"> Avoids future between land Promotes fair outcomes by arrangements Increases cert infrastructure <p><i>Cultural</i></p>

<p><i>Overall evaluation of Option 3</i></p> <p>For the reasons set out above, <u>Option 3 is recommended.</u></p>		Nil.								
<p>Risk of acting/not acting</p> <p>There is sufficient information to analyse the appropriateness of acting or not acting as:</p> <ul style="list-style-type: none"> The issue is well understood, and the recommended option provides greater alignment with the RMA, while remaining consistent with the objectives and policies of the District Plan; and Overall, the risk of not acting is considered to be greater than the risk of acting. 										
<p>Consultation</p> <p>The Council's Resource Consents Team is supportive of the change.</p>										
<p>Recommended Option</p> <p>Following the assessment above, <u>Option 3 is the recommended option.</u></p>										
<p>Recommended Changes</p> <table border="1"> <thead> <tr> <th colspan="2">SUB-R1</th><th>Subdivision for the purpose of the construction and use of residential units in the Medium Density Residential Zone or High Density Residential Zone</th></tr> </thead> <tbody> <tr> <td></td><td>Medium Density Residential Zone</td><td rowspan="2"> <p>1. Activity status: Controlled</p> <p>Matters of control are:</p> <ol style="list-style-type: none"> The provision of practical, physical and legal access from each allotment directly to a formed legal road or by registered right of way; The provision of a water supply connection to the Council's reticulated water supply system for each allotment sufficient to meet the levels of service in the Wellington Water Regional Standard for Water Services v3.0 December 2021 and the requirements of the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008; The provision of a wastewater disposal connection to Council's reticulated wastewater system for each allotment sufficient to meet the level of service in the Wellington Water Regional Standard for Water Services v3.0 December 2021; The provision of a stormwater connection to Council's reticulated stormwater system for each allotment sufficient to meet the level of service in the Wellington Water Regional Standard for Water Services v3.0 December 2021; The provision of fibre optic cable connections to the legal boundary of each allotment; The provision of electricity connections to the legal boundary of each allotment. <p>Notification status: <u>Applications under this rule are precluded from being publicly or limited notified.</u></p> <p>Applications under this rule are precluded from being publicly notified or limited notified if the subdivision is only associated with residential units that fully comply with density standards MRZ S1, MRZ S2, MRZ S3, MRZ S4, MRZ S5, MRZ S6, MRZ</p> </td></tr> <tr> <td></td><td>High Density Residential Zone</td></tr> </tbody> </table>		SUB-R1		Subdivision for the purpose of the construction and use of residential units in the Medium Density Residential Zone or High Density Residential Zone		Medium Density Residential Zone	<p>1. Activity status: Controlled</p> <p>Matters of control are:</p> <ol style="list-style-type: none"> The provision of practical, physical and legal access from each allotment directly to a formed legal road or by registered right of way; The provision of a water supply connection to the Council's reticulated water supply system for each allotment sufficient to meet the levels of service in the Wellington Water Regional Standard for Water Services v3.0 December 2021 and the requirements of the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008; The provision of a wastewater disposal connection to Council's reticulated wastewater system for each allotment sufficient to meet the level of service in the Wellington Water Regional Standard for Water Services v3.0 December 2021; The provision of a stormwater connection to Council's reticulated stormwater system for each allotment sufficient to meet the level of service in the Wellington Water Regional Standard for Water Services v3.0 December 2021; The provision of fibre optic cable connections to the legal boundary of each allotment; The provision of electricity connections to the legal boundary of each allotment. <p>Notification status: <u>Applications under this rule are precluded from being publicly or limited notified.</u></p> <p>Applications under this rule are precluded from being publicly notified or limited notified if the subdivision is only associated with residential units that fully comply with density standards MRZ S1, MRZ S2, MRZ S3, MRZ S4, MRZ S5, MRZ S6, MRZ</p>		High Density Residential Zone	
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<p>Consequential Amendments</p> <p>No consequential changes are required.</p>		