



Briefing

Bringing forward and strengthening the National Policy Statement on Urban Development – Delegated Policy Decisions			
Date:	11 June 2021	Security level:	In Confidence
Priority:	Urgent	Report number:	MfE: BFR-89 HUD: BRF20/21060984

Action sought		
	Action sought	Deadline
Hon Dr Megan Woods Minister of Housing	Agree to the recommendations.	15 June 2021
Hon David Parker Minister for the Environment		
CC: Hon Nanaia Mahuta Minister of Local Government	No action	
CC: Hon Phil Twyford Associate Minister for the Environment		

Contact for discussion			
Name	Position	Telephone	1 st contact
Lesley Baddon	Director, MfE	021 738 357	✓
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Brad Ward	Deputy Chief Executive HUD	s 9(2)(a)	
Jessica Ranger	Manager, HUD	s 9(2)(a)	✓

Other agencies consulted
Treasury, Department of Internal Affairs

Minister's office to complete

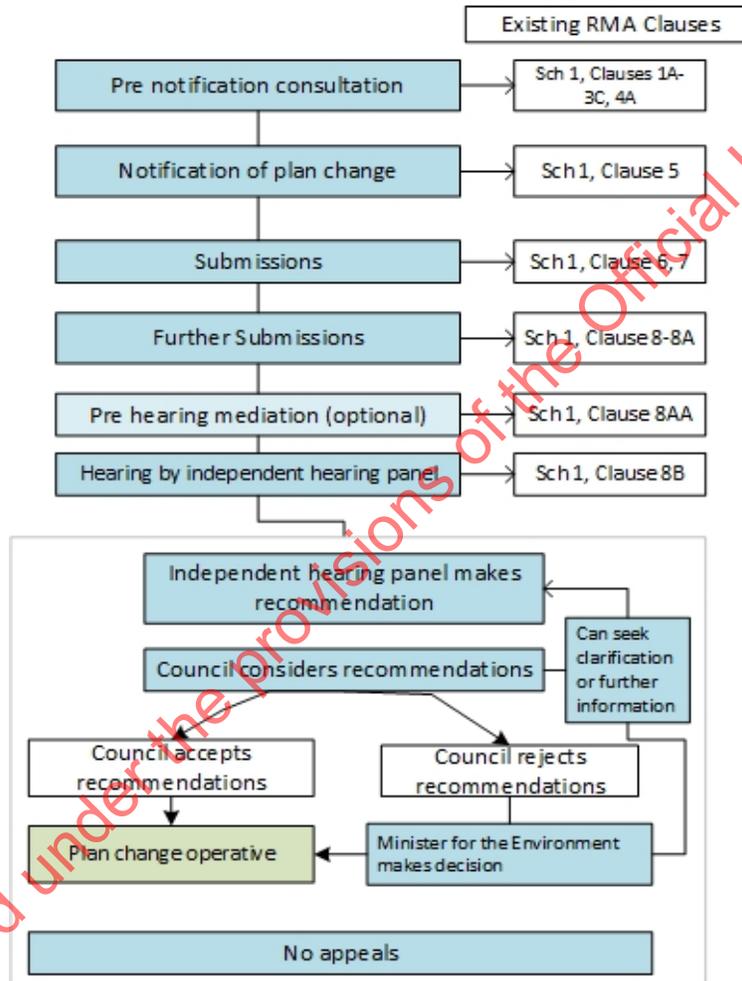
<ol style="list-style-type: none"> 1) Noted 2) Seen 3) Approved 4) Needs change 5) Not seen by Minister 6) Overtaken by events 7) Declined 8) Referred to (specify) <hr style="width: 20%; margin-left: 0;"/>	<p>Comments</p>
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Date returned to HUD:

Management Act 1991 (RMA) with some detail clarified in a direction(s)¹ by the Ministers of Housing and the Environment.

7. We recommend the following process steps. These are based on the existing streamlined planning process (SPP) with the addition of a hearing, further submissions and optional pre-hearing mediation. We believe these additions are appropriate as they are included in most existing SPPs and provide for public participation and ensure robust yet efficient decision making.

Figure 1 – Steps for the Intensification Streamlined Planning Process



8. In addition, we recommend the following detail which clarifies requirements and improves the ease of the process:
 - a. A direction(s) be developed and published in the Gazette that sets out additional details of the ISPP (as is done for the SPP). This would apply to details such as timeframes, reporting requirements and/or other expectations.

¹ The direction will be either a disallowable instrument not a legislative instrument, or an administrative notice and will be published in the Gazette.

- b. Any direction should be able to be amended if required. We recommend that there is a mechanism for amending a direction similar to that for amending directions in the SPP.
 - c. A requirement that evaluation reports be prepared (as is the case for all plan changes under section 32 and 32AA of the RMA).
 - d. A requirement that hearings be held subject to the usual RMA council hearings provisions except that there will be no restrictions on questioning and cross-examination in the hearing. This requirement would be the same as for the SPP.
 - e. A requirement to include a report on how submissions have been considered (as is the case for other plan changes under clause 10, Schedule 1 of the RMA).
 - f. Local authorities will appoint their independent hearings panel, as per the processes in section 34A of the RMA. This will enable local authorities to appoint people with appropriate expertise and availability. The direction can also specify further matters such as the minimum number of panel members.
 - g. At least one member of the panel must have an understanding of tikanga Māori and of the perspectives of local iwi or hapū. This appointment should be made in consultation with relevant iwi authorities. This reflects similar requirements in the Covid-19 Recovery (Fast Track Consenting) Act 2020.
9. We will engage with local authorities on feasible timeframes. We anticipate that the ISPP should be able to be completed within 12 months, approximately by August 2023. We will report back to you on the outcome of this engagement.
10. The ISPP will not be available for any future plan changes as cities expand or rezone brownfield land. Instead, they will use the standard plan change process (RMA Schedule 1) or apply to use a SPP. The new resource management system will supersede RMA based processes.

Medium density residential zone and intensification streamlined planning process clarification

11. While it is the policy intent for the MDRZ to be implemented through the streamlined process, Manatū Mō Te Taiao - Ministry for the Environment (MfE) and Te Tūāpapa Kura Kāinga - Ministry of Housing and Urban Development (HUD) have identified that Cabinet has not expressly agreed to this. Therefore, we ask you to confirm that Cabinet understood the MDRZ will be implemented through the ISPP.

Medium density residential zone provisions

12. Cabinet agreed to several features of the standard medium density zone. This includes that it must be incorporated into RMA plans in tier 1 urban environments and that the zone will allow three storeys and three units as of right per site. You were given delegation to make detailed decisions on the content of MDRZ provisions.
13. We have now developed detailed provisions and recommend these requirements as outlined in Annex A. Provisions specified include maximum height, height in relation to boundary, building coverage, minimum outdoor living and outlook spaces. The main components of these provisions are set out in Table 1 below.

Table 1 – MDRZ Standards

Height	11m + 1m for qualifying pitched roof
Height in relation to boundary	6m high + 60° recession plane
Setbacks	Front yard: 2.5m Side yard: 1m Rear yard: 1m (excluded on corner sites)
Building coverage	Max 50%
Impervious surface	Max 60%
Outdoor living space (one per unit)	15m ² ground floor adjoining residential unit (minimum dimension of 3m) 8m ² above ground balcony per floor (minimum dimension of 1.8m)
Outlook space (per unit)	Principal living room: 3m x 3m All other habitable rooms: 1m x 1m

14. It is necessary to specify these provisions as they cover standard provisions used in residential zones. If not specified, local authorities will be able to develop their own standards. These council-drafted provisions might not meet the aim of the proposed legislation because they may reduce density. Specifying these provisions also provides consistency and reduces council workloads.
15. In developing these provisions, we have aimed to enable three storeys and three dwellings on a wide range of urban sites. This includes within inner city sites, which are generally smaller than those in more recent subdivisions. In addition to meeting Cabinet's aims, as a package, these specifications will enable diversity in design, allowing developers to find innovative ways to improve the use of sites. Guidance may support higher quality medium density developments to be built. We will investigate producing this work shortly.
16. The need to enable three storeys and three dwellings across a wide range of sites has resulted in a significant shift from current zoning rules, including where medium density housing zones are already in place. For example, the proposed height in relation to boundary rule is approximately twice as enabling as the same rule in the Auckland Unitary Plan (AUP) Mixed Housing Urban Zone². As we noted in an earlier briefing [2021-B-07777 (MfE)/BRF20/21030900 (HUD)], the AUP rule does not consistently enable three storeys and three dwellings.
17. We also note that in some instances, the proposed provisions are complicated as well as technical, as they are designed to work within the complex RMA system. An example of this is the subdivision requirements, which are designed to ensure land is not fragmented prematurely and consequently unable to be developed efficiently.
18. Modelling has been completed to test the feasibility of these provisions on a representative inner city suburb residential site. While we are confident that they will enable increased housing supply, we plan to undertake further modelling and testing to ensure there are no unintended consequences.
19. Annex B provides a table comparing the proposed MDRZ requirements to the AUP Mixed Housing Urban Zone and other district plans. The table shows the increased flexibility of the MDRZ in comparison to existing zoning.

² The AUP Mixed Housing Zone has a height in relation to boundary recession plane measured on site boundaries 3m high and then at an angle of 45 degrees inside the site, whereas the proposed MDRZ includes 6m high and a 60-degree angle.

20. The MDRZ will apply in existing and new residential areas in tier 1 cities. To provide certainty, 'residential' needs to be defined. We propose using zone names and corresponding descriptions from the National Planning Standards.

Clarifying the medium density residential zone replaces existing zone provisions by making existing zone provisions inoperative

21. The MDRZ will be implemented as though it is operative when it is notified. This is intended to occur by replacing existing zone provisions where the MDRZ is applied (as determined by the local council utilising qualifying matters). However, MfE and HUD have identified that Cabinet has not clearly agreed to this.
22. The lack of clarity arises as two agreed recommendations 14 and 19 have overlapping outcomes [Minute of Decision CAB-21-MIN-0188]. While recommendation 19 stipulates that MDRZ would broadly have immediate legal effect, with no limitations on provision types such as rules, recommendation 14 only stipulates that *rules* would be replaced. While rules are the key component of a successful immediate legal effect outcome, objectives and policies must also be replaced.
23. Therefore, we request confirmation that Cabinet understood the MDRZ will have immediate legal effect as it replaces all relevant existing provisions. This would include replacing some objectives, policies, rules, assessment criteria and related subdivision standards within relevant zones.
24. Once intensification streamlined planning processes are completed, all subsequently zoned residential areas (such as greenfield areas) will have to enable at least as much development as the MDRZ. Proposed new zones at a later time will not be able to use the intensification streamlined planning process and therefore the provisions regarding immediate legal effect will not apply to such future plan changes. In these circumstances, the changes would use standard processes as described in paragraph 10 and become fully operative once a final decision is made.

Criteria for introducing tier 2 local authorities

25. Cabinet delegated authority to the Minister for the Environment to apply the MDRZ to tier 2 urban environments via an Order in Council. Criteria for adding these urban environments must be included in legislation.
26. The split between tiers 1 and 2 in the NPS-UD is based on current population size and projected growth to reflect housing pressures in the medium to long-term. However, when selecting which cities should be included in tier 1 urban environments in this legislation, we consider there are other criteria which provide a more nuanced picture of acute housing need.
27. We recommend the legislation specify that the Minister for the Environment consider house price to income ratio (median multiple) and other evidence of acute housing need when making an order in council to include any tier 2 urban environments.
28. The median multiple is the ratio between median house price and median annual household income. The measure is tied closely to affordability, simple to calculate, widely understood and used both domestically and internationally. A ratio of 3 or less is generally considered affordable. Auckland is over 11, Queenstown is 16, and Rotorua and Christchurch are over 6. Other measures considered calculate affordability indirectly or have a more complex calculation methodology.
29. Other evidence of acute housing need could include evidence identified in Housing and Business Development Capacity Assessments (HBAs). The next HBAs must be prepared by 31 July 2021.

30. We recommend the Minister for the Environment specifies before the legislation passes, those tier 2 local authorities which must implement the MDRZ.
31. We will provide advice on which tier 2 local authorities to include prior to final reading of legislation based on the above criteria.

Next steps

32. As soon as we receive your decisions, we will issue final drafting instructions to PCO.
33. We will begin targeted engagement with iwi post settlement governance entities and tier 1 local authorities on the proposals, once instructed to by Ministers.

Recommended actions

Intensification streamlined planning process

- | | |
|---|-----------------------------|
| a. Agree that the process outlined in Figure 1 will be the intensification streamlined planning process in the Resource Management Act 1991 (RMA) | <i>Agree /
Disagree</i> |
| b. Agree that for decision-making in the intensification streamlined planning process: <ul style="list-style-type: none"> i. if the independent hearings panel and council agree, this triggers the plan changes to become operative ii. where there is disagreement between the independent hearing panel and the relevant council, the Minister for the Environment makes the final decision | <i>Agree /
Disagree</i> |
| c. Agree that the RMA enables a direction to be developed to contain further process detail for the intensification streamlined planning process (such as timeframes, independent hearing panel membership, reporting requirements, any Statement of Expectations). This will be similar to directions developed under the streamlined planning process | <i>Agree /
Disagree</i> |
| d. Agree that a mechanism for amending a direction be set in the RMA. This will be similar to the ability to amend directions in the streamlined planning process | <i>Agree /
Disagree</i> |
| e. Agree that councils will be required to meet section 32 and 32AA evaluation requirements during intensification streamlined planning process | <i>Agree /
Disagree</i> |
| f. Agree that a hearing under the intensification streamlined planning process will be held subject to the usual RMA council hearings' provisions except that there will be no restrictions on questioning and cross-examination in the hearing | <i>Agree /
Disagree</i> |
| g. Agree councils must produce a report on how submissions have been considered in a similar way to clause 10, Schedule 1 of the RMA | <i>Agree /
Disagree</i> |
| h. Agree that decisions may include matters or consequential amendments relating to matters arising from submissions | <i>Agree /
Disagree</i> |

- i. **Agree** that when councils appoint relevant independent hearing panels they must appoint at least one member who has an understanding of tikanga Māori and of the perspectives of local iwi or hapū. This appointment should be made in consultation with relevant iwi authorities

Agree /
Disagree

Clarifying the medium density residential zones will be considered alongside the intensification streamlined planning process

- j. **Agree** that the RMA is amended to require that tier 1 local authorities must use the intensification streamlined planning process for plan changes to implement the medium density residential zone, (alongside policies 3 and 4 of the National Policy Statement on Urban Development)

Agree /
Disagree

Medium density residential zone

- j. **Agree** to the proposed provisions for the medium density residential zone contained in Annex A, including directions where the zone will be applied, what it must enable via standards and related subdivision rules

Agree /
Disagree

- k. **Agree** the definition of 'residential' for the medium density residential zone will be based on residential zone names and descriptions from the National Planning Standards

Agree /
Disagree

Clarifying the medium density residential zone replaces existing zone provisions by making existing zone provisions inoperative

- l. **Agree** that all medium density residential zone provisions (objectives, policies, rules) including consequent subdivision provisions will have immediate legal effect upon notification and the relevant operative provisions in existing underlying zones (where inconsistent with the medium density residential) will be inoperative

Agree /
Disagree

- m. **Note** that this does not apply to areas where an existing zone remains due to a qualifying matter or National Policy Statement on Urban Development prescribed intensification area applies (as determined by local authorities)

Criteria for inclusion of Tier 2 urban environments

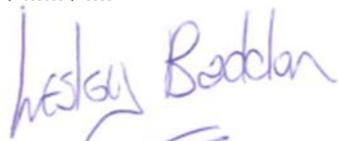
- n. **Agree** that legislation specifies that the following criteria will be considered by the Minister for the Environment via an Order in Council for tier 2 urban environments to implement the medium density residential zone:
 - i. house price to income ratio (median multiple)
 - ii. other evidence of acute housing need.

Agree /
Disagree



Jessica Ranger
**Manager, Te Tūāpapa Kura Kāinga –
Ministry of Housing and Urban
Development**

..... / /



Lesley Baddon
**Director, Urban and Infrastructure, –
Ministry for the Environment**

..... / /

Hon Dr Megan Woods
Minister of Housing

..... / /

Hon David Parker
Minister for the Environment

..... / /

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Annex A: Medium density residential zone

Application of the medium density residential zone

1. The medium density residential zone (MDRZ) will apply to all tier 1 urban environments, or any tier 2 urban environment via an Order in Council, as defined in the NPS-UD.
2. The MDRZ is the minimum enabled outcome within residential zones and will apply to all existing and new residential zones as defined in the National Planning Standards (or their equivalent within existing district plans). Except for large lot residential zones, the MDRZ will apply in all other residential zones. Territorial authorities (Local authorities) may apply the MDRZ to existing large lot residential zones at their discretion. Any new or redefined residential zones must not restrict the outcome sought by the MDRZ.
3. For the avoidance of doubt, other residential and non-residential activities can remain in amended zones or be incorporated into the new MDRZ.

MDRZ requirements

4. *Local authorities* must apply the MDRZ by creating new residential zones in existing residential areas to incorporate the MDRZ requirements. The zone is to be based on the following set of MDRZ provisions (4)(a) to (k) and, in relation to residential use and development, must in its district plan:
 - a) Allow the use and development of up to three residential units per site that comply with all building standards in clause (4)(f) as a permitted activity. This includes conversions, additions, alterations to and demolition of existing residential units, as well as the use and development of accessory buildings. The outcome sought by this clause is to enable increased housing density and typologies within existing and new residential areas.
 - b) State that any application for four or more units, or development that exceeds any standard, will be assessed as a restricted discretionary activity. There shall be no controlled, discretionary, non-complying or prohibited activity status in relation to residential use and development.
 - c) Not allow any design guide assessment to be required as a matter of discretion. Any new design guides, or design guides previously used, may only be used to encourage good design.
 - d) Include the following notification preclusion for applications to be assessed as a restricted discretionary activity:
 - i. Applications for up to 3 units that do not comply with one or more standard are precluded from public notification
 - ii. Applications for 3 or more units (that comply with all the standards) are precluded from public and limited notification.
 - e) Include accompanying enabling objectives and policies for the MDRZ.
 - f) Allow only the building standards in Table 1. If any of the standards in Table 1 are more permissive in the operative (or treated as operative) District Plan, or if the council wishes for any of these standards to be more permissive, then the more permissive standards may apply instead.

Table 1 – MDRZ Standards

Height	11m + 1m for qualifying pitched roof
Height in relation to boundary	6m high + 60° recession plane
Setbacks	Front yard: 2.5m Side yard: 1m Rear yard: 1m (excluded on corner sites)
Building coverage	Max 50%
Impervious surface	Max 60%
Outdoor living space (one per unit)	15m ² ground floor adjoining residential unit (minimum dimension of 3m) 8m ² above ground balcony per floor (minimum dimension of 1.8m)
Outlook space (per unit)	Principal living room: 3m x 3m All other habitable rooms: 1m x 1m

- g) Include accompanying diagrams to assist use of the standards in clause (4)(f).
- h) Retain any engineering standards to be used, including for the purpose of providing dimensional standards for car parking, and vehicle crossings when a developer chooses to provide car parking, and utility servicing such as three-waters, electricity and communications.
- i) Ensure the provisions of the zone are individually and cumulatively consistent with the development outcomes enabled by clauses (4)(a) to (h).
- j) Modify the relevant provisions (clauses (4)(a) to (i)) only to the extent necessary to accommodate a qualifying matter in that area. This applies to any spatial layers relating to overlays, precincts, specific controls or development areas as defined in the National Planning Standards (or equivalent), and includes:
- i. Any operative (or treated as operative) district plan spatial layers
 - ii. Any new district plan spatial layers proposed
- k) Any matter considered a qualifying matter which justifies a modification to the direction in clauses (4)(a) to (j), must be demonstrated and set out spatially where this applies. [NPS-UD qualifying matters section to be inserted]
5. Any subdivision provisions (including rules and standards) must also be consistent with the outcome sought by the MDRZ, therefore new subdivision provisions will be required to accompany the MDRZ. There must be no minimum lot size, shape size or other size related subdivision requirements for:
- a) Every allotment where there is an existing residential unit if the subdivision does not increase the degree of any non-compliances with the standards in clause (4)(f). Where subdivision is proposed between residential units that share a common wall, height in relation to boundary and setback requirements shall not apply along the length of the common wall.
 - b) Every allotment where there is no existing residential unit, or for which no existing land use consent for a residential unit has been granted, or is being concurrently granted (in the case of joint land use and subdivision applications) if it can be demonstrated

that it is practicable to construct on all allotments, as a permitted activity, a dwelling which complies with all standards in clause (4)(f).

- c) Subdivision of land around residential units approved or part of a land use resource consent and no vacant allotments are created.

Interpretation

- 6. Terms defined in the National Planning Standards issued under section 58E of the RMA and used in this Annex have the meaning in that Standard, unless otherwise specified.

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Annex B: Core planning controls in district plans within tier 1 urban environments

Comparison of the medium density provisions in tier 1 council plans																
Provisions	Medium Density Zone Rules	Councils														
		Auckland	Hamilton			Christchurch			Wellington			Tauranga				
		Auckland Unitary Plan – Mixed Housing Urban Zone	Hamilton District Plan – Residential Intensity	Waikato District Plan (Operative)	Waipā District Plan – Residential Zone	Christchurch District Plan – Residential Medium Density	Selwyn District Plan (Operative) – Living Zone	Waimakariri District Plan – Residential 1 Zone	Wellington City District Plan – Medium Density Residential	Porirua District Plan – Medium Density Residential	Hutt City District Plan – Medium Density Residential	Upper Hutt District Plan – Residential Zone	Kāpiti Coast District Plan – Medium Density	Tauranga District Plan – City Living Zone	Western Bay of Plenty District Plan – Medium Density Zone	
Dwellings permitted	3	3	All require consent	All require consent	1	1 principal and 1 secondary dwelling	2	1	1	1	2	2	1	1	2	1
Building height	11m	11m	12.5m	9m	7.5m	9m	11m	8m	8m	10m – Kilbirnie 8m – Johnsonville	11m	10m	8m	8m	9m	9m 12m Waihi
Height in relation to boundary	6m + 60°	3m + 45°	Only applies to boundaries adjoining special character	2.5m + shortest distance between building and site boundary	2.5m + 37°	2.7m + 45° (North) 2.7m + 28° (South)	2.3m + 55°	2.5m + 30° to 55°	2.5m + 44°	2.5m + 45°	3m + 55° (north) 3m + 45° (east, west, south)	3.5m + 45°	2.7m + 35° (NW to NE) 2.7m + 45° (NE to NW)	2.1m + 45°	2.7m + 55° (north) 2.7m + 45° (south)	2m + 45°
Setbacks	Front – 2.5m Side – 1m (one side only) Rear – 1m	Front – 2.5m Side/Rear – 1m	Between 3m – 8m depending on road Side/rear – 1.5m	Front – 3m Side – 1.5m Rear – 3m	Front (garage) – 6m Rear – 6m Side – 1.5m	Front – 4m Side/rear – 2m	Front – 2m garage setback 4.5m – 8m Internal boundary – 1m	Front – 4m Side/Rear – 2m	Front – 2m	Front – 3m Side/rear – 0	Front – 2m Side/rear – 1m	Front – 2m Side/rear – 1m	Front – 4m Rear – 3m Side – 1.5m and 3m	Front – 4.5m Rear – 3m 1 side – 3m All other – 1m	Front – 3m Side/rear – 1.5m	Front – 3m Side/rear – 1.5m
Building coverage	50%	45%	50% Hamilton East – 45%	35%	40%	40%	50%	40%	50%	50%	45%	60%	45%	40%	Up to 500m ² – 55% Over 500m ² – 45%	40%
Landscaped area/permeable surface	-	35%	Front, corner, through – 40% Entire site – 20%	30%	-	40%	20%	-	-	-	40%	30%	-	30%	-	20%
Impervious coverage	60%	60%	-	-	50%	-	-	-	-	-	-	-	-	-	70%	-
Outdoor living space (d) dimension (GF) ground floor (UF) upper floor	15m ² + 3m (d) (GF) 8m ² + 1.8m (d) (UF)	20m ² + 4m (d) (GF) 5-8m ² + 1.8m (d) (UF)	35m ² (varies with typology)	60m ² + 5m (d)	80m ² + 6m (d)	60m ² + 5m (d)(GF) upper floor includes 8m ² + 2m (d)	(Studio, 1 bed) 16m ² – (2+ bed) 30m ² + 4m (d) (GF) 16m ² + 1.5m (d) (UF)	50m ² + 4m (d) (GF) 1.5m (d) (UF)	-	20m ² + 3m (d)	20m ² + 4m (d) (GF) 5m ² + 1.8m (d) (UF)	20m ² + 3m (d) (GF) 10m ² + 2m (d)	6m (d) circle (GF) 10m ² + 2.2m (d) (UF)	30m ² + 2.5m (d)	50m ² + 4x3m (d) (GF) 12m ² (UF)	25m ² + 4m (d)
Outlook space	Principal living room and bedrooms – 3m x 3m All habitable rooms: 1m x 1m	Principal living – 6m x 4m Principal bed – 3m x 3m All other room – 1m x 1m	3m internal separation	-	-	-	-	-	-	-	-	-	-	-	-	-
Fencing and walls	-	Front – 1.4m Rear/side – 2m	1.8m	1.2m	Front – 1m or 1.8m permeable	-	1.8m – 50% permeable 1m – not 50%	1.2m	1.5m	2m	Front – 1.2m Side/rear – 2m	-	Front – 1.5m	Front 1.8m Side/rear – 2m	-	Front 1.2m

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