

Plan Change 12 – Enabling Housing: Part 2 Section 32 Evaluation

# Appendix 2.8 Relevant Provisions of the RMA

Sections 32 of the RMA and 77J-77K, 77P and 77Q of the HSAA

## 32 - Requirements for preparing and publishing evaluation reports

1. An evaluation report required under this Act must:
  - a. Examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and
  - b. Examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by:
    - i. Identifying other reasonably practicable options for achieving the objectives; and
    - ii. Assessing the efficiency and effectiveness of the provisions in achieving the objectives; and
    - iii. Summarising the reasons for deciding on the provisions; and
  - c. Contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.
2. An assessment under subsection (1)(b)(ii) must:
  - a. Identify and assess 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:
    - i. Economic growth that is anticipated to be provided or reduced; and
    - ii. Employment that is anticipated to be provided or reduced; and
  - b. If practicable, quantify the benefits and costs referred to in paragraph (a); and
  - c. Assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.
3. If the proposal (an amending proposal) will amend a standard, statement, national planning standard, regulation, plan, or change that is already proposed or that already exists (an existing proposal), the examination under subsection (1)(b) must relate to:
  - a. The provisions and objectives of the amending proposal; and
  - b. The objectives of the existing proposal to the extent that those objectives:
    - i. Are relevant to the objectives of the amending proposal; and
    - ii. Would remain if the amending proposal were to take effect.
4. If the proposal will impose a greater or lesser prohibition or restriction on an activity to which a national environmental standard applies than the existing prohibitions or restrictions in that standard, the evaluation report must examine whether the prohibition or restriction is justified in the circumstances of each region or district in which the prohibition or restriction would have effect.

If the proposal is a proposed policy statement, plan, or change prepared in accordance with any of the processes provided for in Schedule 1, the evaluation report must:

- a. Summarise all advice concerning the proposal received from iwi authorities under the relevant provisions of Schedule 1; and
  - b. Summarise the response to the advice, including any provisions of the proposal that are intended to give effect to the advice.
5. The person who must have particular regard to the evaluation report must make the report available for public inspection:
- a. As soon as practicable after the proposal is made (in the case of a standard, regulation, national policy statement, or New Zealand coastal policy statement); or
  - b. At the same time as the proposal is notified.
6. In this section, -

**objectives** means, -

- a. For a proposal that contains or states objectives, those objectives:
- b. For all other proposals, the purpose of the proposal

**proposal** means a proposed standard, statement, national planning standard, regulation, plan, or change for which an evaluation report must be prepared under this Act

**provisions** means, -

- a. For a proposed plan or change, the policies, rules, or other methods that implement, or give effect to, the objectives of the proposed plan or change:
- b. For all other proposals, the policies or provisions of the proposal that implement, or give effect to, the objectives of the proposal.

## 77J - Requirements in relation to evaluation report

1. This section applies if a territorial authority is amending its district plan (as provided for in section 77G).
2. The evaluation report from the specified territorial authority referred to in section 32 must, in addition to the matters in that section, consider the matters in subsections (3) and (4).
3. The evaluation report must, in relation to the proposed amendment to accommodate a qualifying matter:
  - a. Demonstrate why the territorial authority considers:

- i. That the area is subject to a qualifying matter; and
    - ii. That the qualifying matter is incompatible with the level of development permitted by the MDRS (as specified in Schedule 3A) or as provided for by policy 3 for that area; and
  - b. Assess the impact that limiting development capacity, building height, or density (as relevant) will have on the provision of development capacity; and
  - c. Assess the costs and broader impacts of imposing those limits.
4. The evaluation report must include, in relation to the provisions implementing the MDRS:
- a. A description of how the provisions of the district plan allow the same or a greater level of development than the MDRS:
  - b. A description of 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 any spatial layers relating to overlays, precincts, specific controls, and development areas, including:
    - i. Any operative district plan spatial layers; and
    - ii. Any new spatial layers proposed for the district plan.
5. The requirements set out in subsection (3)(a) apply only in the area for which the territorial authority is proposing to make an allowance for a qualifying matter.
6. The evaluation report may for the purposes of subsection (4) describe any modifications to the requirements of section 32 necessary to achieve the development objectives of the MDRS.

## 77K - Alternative process for existing qualifying matters

1. A specified territorial authority may, when considering existing qualifying matters, instead of undertaking the evaluation process described in section 77J, do all the following things:
  - a. Identify by location (for example, by mapping) where an existing qualifying matter applies:
  - b. Specify the alternative density standards proposed for those areas identified under paragraph (a):
  - c. Identify in the report prepared under section 32 why the territorial authority considers that 1 or more existing qualifying matters apply to those areas identified under paragraph (a):
  - d. Describe in general terms for a typical site in those areas identified under paragraph (a) 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:

- e. Notify the existing qualifying matters in the IPI.
2. To avoid doubt, existing qualifying matters included in the IPI:
  - a. Do not have immediate legal effect on notification of the IPI; but
  - b. Continue to have effect as part of the operative plan.
3. In this section, an **existing qualifying matter** is a qualifying matter referred to in section 77I(a) to (i) that is operative in the relevant district plan when the IPI is notified.

## 77P - Requirements governing application of section 77O

1. This section applies if a specified territorial authority is amending its district plan (as required by section 77N) and proposes to accommodate a qualifying matter.
2. The evaluation report from the specified territorial authority referred to in section 32 must, in addition to the matters in that section, consider the matters in subsection (3).
3. The evaluation report must, in relation to the proposed amendment to accommodate a qualifying matter:
  - a. in the area for which the territorial authority is proposing to make an allowance for a qualifying matter, demonstrate why the territorial authority considers:
    - i. That the area is subject to a qualifying matter; and
    - ii. That the qualifying matter is incompatible with the level of development provided for by policy 3 for that area; and
  - b. Assess the impact that limiting development capacity, building height, or density (as relevant) will have on the provision of development capacity; and
  - c. Assess the costs and broader impacts of imposing those limits.

## 77Q - Alternative process for existing qualifying matters

1. A specified territorial authority may, when considering existing qualifying matters, instead of undertaking the evaluation process described in section 77P, do all the following things:
  - a. Identify by location (for example, by mapping) where an existing qualifying matter applies:
  - b. Specify the alternative density standards proposed for the area or areas identified under paragraph (a):

- c. Identify in the report prepared under section 32 why the territorial authority considers that 1 or more existing qualifying matters apply to the area or areas identified under paragraph (a):
  - d. Describe in general terms for typical sites in those areas identified under paragraph (a) the level of development that would be prevented by accommodating the qualifying matter, in comparison with the level of development that would have been enabled by policy 3:
  - e. Notify the existing qualifying matters in the IPI.
2. To avoid doubt, existing qualifying matters included in the IPI:
- a. Do not have immediate legal effect on notification of the IPI; but
  - b. Continue to have effect as part of the operative plan.
3. In this section, **an existing qualifying matter** is a qualifying matter referred to in section 770(a) to (i) that is operative in the relevant district plan when the IPI is notified.