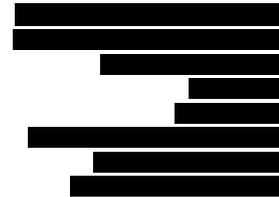


17 August 2018

Ministry for the Environment
PO Box 10362
Wellington 6143

By email: planningstandards@mfe.govt.nz



SUBMISSION OF THE MINISTRY OF SOCIAL DEVELOPMENT ON THE DRAFT NATIONAL PLANNING STANDARDS

The Property Group Limited has been engaged by the Ministry of Social Development (“MSD”) in regard to the Draft National Planning Standards.

Please find enclosed MSD’s submission on the Draft National Planning Standards.

MSD supports the Draft National Planning Standards and its purpose of improving consistency in plan and policy statement structure, format and content. However, MSD seeks a definition of transitional residential accommodation be included in the Draft National Planning Standards.

MSD would welcome the opportunity to discuss its submission with the Ministry for the Environment.

Please let us know if you have any questions or would like to discuss the above.

RACHEL RITCHIE
Senior Planner
The Property Group Limited

Copy to: Sarah Sinclair – Ministry of Social Development

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SUBMISSION ON BEHALF OF THE MINISTRY OF SOCIAL DEVELOPMENT ON THE DRAFT NATIONAL PLANNING STANDARDS

Submitter name: Ministry of Social Development

Address for service: The Property Group

[REDACTED]

Submitter type: Central government

The Ministry for Social Development (“MSD”) is the government agency responsible for improving the quality and supply of public housing across New Zealand. One of the ways this is done is through the provision of transitional housing in places of need while more permanent public housing is found. Transitional housing provides warm, dry and safe short-term accommodation for people in need. It is managed by contracted providers, who are skilled in supporting tenants with a range of tailored social support, tenancy-related services, and are also responsible for maintaining the properties. Appendix 2 provides further information about the transitional housing programme.

Introduction

MSD supports the Draft National Planning Standards (NPS) and its purpose of improving the consistency of plan and policy statement structure, format and content. Variations in District Plan definitions relating to temporary or transitional residential accommodation create time and cost delays for MSD when trying to establish transitional housing around New Zealand.

The inclusion of a definition for transitional residential accommodation in the NPS would provide consistency in how it is defined in District and Unitary Plans. Individual plans would still determine how transitional residential accommodation is included in the rules and standards of the plan. However, having a standard definition would encourage Councils to give consideration to how it is provided for in the plan as a specific activity.

Background

MSD regularly seeks to establish transitional residential accommodation and more permanent public housing in various locations around New Zealand. Transitional residential accommodation is generally for an average of 3 months per household, until more permanent public housing can be found. For transitional housing complexes, onsite management and social wrap around services are also provided on site. Both the temporary nature of the residential accommodation and the accessory wrap around social services and supervision can create complications when determining what definition the activity falls under in District and Unitary Plans.

Whether or not resource consent is required for transitional residential accommodation varies depending on the particular location of the housing and the District or Unitary Plan that therefore applies. In particular, the specific wording of plan definitions will frequently determine whether or not resource consent is required. The uncertainty related to establishing MSD housing due to variations in District and Unitary Plans has, to date, resulted in considerable time delays and cost implications. Definitions in District and Unitary Plans are fundamental to the rules that apply to an activity in any given zone and jurisdiction.

Examples

To provide context to the planning issues facing MSD, it is useful to provide some examples of variations in District and Unitary Plan definitions that have affected MSD's provision of transitional residential accommodation. These are detailed in Appendix 1.

Issues

Definitions

District and Unitary Plan definitions tend to fall within 3 different categories:

1. Explicitly include transitional residential accommodation

Some plans, such as Whangarei District Plan, explicitly include transitional residential accommodation within the District Plan definition. This provides certainty about how transitional residential accommodation is categorized in the plan. However, depending on how the definition is worded, it can also mean transitional residential accommodation must comply with rules and standards that are not specific to effects of transitional residential accommodation. For example, under the Whangarei District Plan, the inclusion of transitional residential accommodation under the definition of residential activity means that it must comply with the rules and standards applying to residential activities in the zone it is located. These issues are discussed further below.

2. Specific numbers included in definitions

Some plans include specific numbers in the definition (e.g. up to 10 people) which the proposed transitional residential accommodation must comply with. We consider that numbers or limits to the activity should be included within the rule or standard, not the definition. For example, Hamilton City District Plan has caps on the number of people on a site for it to meet the definition of emergency

housing, which would apply to transitional residential accommodation provided by MSD, over which it becomes a managed care facility, with differing rules and requirements. The Rotorua District Plan simply has a cap at 8 individuals, after which point there is no activity to consider the application under.

3. Falling between the gaps where the activity does not meet any specific definition

In some plans, the provision of transitional residential accommodation is unable to meet any relevant definition. In these situations, MSD is at the discretion of the Council officers contacted or assessing an application to determine how/where/if transitional residential accommodation is included in any definition in the plan and accordingly determine which rules or standards in the plan a proposal must comply with.

For example, as transitional residential accommodation is not provided for in any definition in the Hastings District Plan, the Council has deemed it to not be provided for in the District Plan and any proposals will require resource consent as a Non-Complying Activity.

This is also the case where there is a general lack of specificity around what the activity should be classed as. For example, the Palmerston North City Council District Plan has determined that transitional residential accommodation falls within the definition of 'community housing' even though the definition does not specifically refer to transitional residential accommodation. As a result, internal Council staff at Palmerston North City Council took multiple weeks to make the decision that this activity would fall under this definition.

Repurposing existing buildings

When transitional residential accommodation is included within a definition of a permitted activity, such as for a Residential Activity, the building the transitional residential accommodation is located within must comply with the activity and building bulk and location standards in the zone in which the site is located. This can create issues given that most transitional residential accommodation is located within existing buildings, often former motels, hostels or backpackers.

While building bulk and location non-compliances are existing, Councils will often deem existing use rights for the non-compliances to be lost under section 10 of the RMA as they consider the effects of the use of the building (eg: motel, hostel, backpackers) for transitional residential accommodation are not the same or similar in character, intensity, and scale to that existing when the building was used as visitor accommodation. The reason given for this includes that the proposed use of the building will often also involve support services being established on the site, such as budgetary or counselling services, which are not required for visitor accommodation purposes. Also, Councils have considered that as the period of stay by occupants will generally be longer when used for MSD purposes, the effects will be different.

For example, in the Whangarei District Plan, transitional housing falls under the definition of a Residential Activity. As a result, if MSD chose to provide transitional/temporary accommodation in a former motel within a Whangarei residential zone (Living 1, 2 and 3 Environments), as a residential activity there is a maximum of one residential unit permitted on a site. In addition, the existing building will often not

comply with bulk and location standards including the requirement for an outdoor living court accessible from a habitable room with a minimum area of 10m² and a minimum dimension of 2m and capable of containing a 5m diameter circle. In reality, while these standards are arguably appropriate to manage on-site amenity and external effects resulting from standard residential occupation of a dwelling, when residing at a dwelling on a temporary basis the need and demand for such high levels of amenity are different.

Draft National Planning Standard definitions

The NPS contains the following relevant definitions:

Residential activity	<i>means the use of land and buildings by people for the primary purpose of living accommodation</i>
Residential unit	<i>means a building or part of a building that is use for a residential activity exclusively by one household, and must include sleeping, cooking, bathing and toilet facilities</i>
Community facility	<i>means a non-profit facility primarily for recreational, sporting, cultural, safety and welfare, religious or similar community purposes</i>
Visitor accommodation	<i>means land and/or buildings used primarily for accommodating non-residents, subject to a tariff being paid</i>

These definitions do not provide enough certainty for MSD purposes that transitional residential accommodation would fall within these definitions when interpreted by Councils.

In particular:

- The definition of residential activity would not include MSD activities where social wrap-around services are provided with the residential accommodation. This definition would also not help the existing issues MSD has when repurposing existing buildings for transitional residential accommodation, as discussed above.
- The definition of residential unit refers to one household. However, no definition of a household is included in the NPS and therefore it is unclear whether use for temporary residential accommodation would fall within this definition.
- The definition of community facility does not appear to apply to residential activities.
- The definition of visitor accommodation would not include MSD activities where social wrap-around services are provided with the residential accommodation.

Discussion

A separate definition specific to transitional residential accommodation in District and Unitary Plans would ensure that all plans consistently refer to the term. This will also encourage plans to provide for transitional residential accommodation as an activity that is recognised as being separate from other activities, which may help reduce the problems when it falls within other generic definitions, such as for Residential Activity.

It is important that any definition distinguishes emergency or temporary housing for MSD or social purposes from that required for civil emergency purposes, such as provided by the Ministry of Civil Defence and Emergency Housing. It is also worthwhile removing the term 'housing' from the definition as transitional/temporary accommodation may be provided in a variety of forms in addition to housing, such as former motels, hostels and backpackers. Therefore, using the term 'transitional residential accommodation' would be appropriate.

Conclusion

We request a definition for transitional residential accommodation be included in the NPS. The following wording is proposed:

"Transitional residential accommodation":

- a) *means temporary accommodation, care and/or support provided by another person or agency for residents (including children) on a temporary basis;*
 - b) *includes –*
 - i) *night shelters*
 - ii) *women's refuges*
 - iii) *transitional housing*
 - iv) *any Crown funded short term residential accommodation; but*
 - c) *does not include –*
 - i) *secure units*
-

The Ministry for Social Development would welcome the opportunity to further discuss this submission with the Ministry for the Environment.

APPENDIX 1: EXAMPLES OF DISTRICT AND UNITARY PLAN DEFINITIONS

This section provides examples of District and Unitary Plan definitions, along with discussion of implications the definitions have had on proposals for MSD's transitional residential accommodation.

Whangarei District Plan

Residential Activity	<i>...the use or occupation of land and buildings by people for the purpose of living accommodation, where the occupiers voluntarily intend to live at the site for a period of one month or more, and includes accessory buildings and leisure activities directly associated with the residential activity. It also means the occupation of land or buildings for the purpose of living accommodation on a temporary basis (i.e. up to one month) where the accommodation is ancillary to the predominant use or activity on the site, and involves up to six people only, such as bed and breakfast, farmstay or homestay accommodation. For the purposes of this definition, residential activity therefore includes rest homes (Geriatric Care facilities), guesthouses, apartments, emergency and refuge accommodation, domestic pastimes and activities associated with residential accommodation. The definition of residential activity therefore does not include motels or hotels; backpackers, bed and breakfast, farmstay or homestay accommodation, for more than six people; which are commercial activities.</i>
Residential Units	<i>...a building or group of buildings, room or group of rooms, with associated services and facilities, designed, used or intended to be used separately or in conjunction with each other as a single independent and separate household unit for a Residential Activity...</i>

This definition of Residential Activity clearly includes emergency housing and the provision of living accommodation on a temporary basis. This definition would cater for MSD's use for transitional or temporary accommodation and more permanent public housing.

In addition to meeting the definition, to be a permitted activity in Living (Residential) Zones, transitional residential accommodation will need to comply with the bulk and location standards of the District Plan that apply to all residential activities. For example, in the Living 1 Zone, where there will be more than one residential unit on the site or each residential unit does not have a minimum site area of 500m², a resource consent is required. This can have implications for the repurposing of an existing motel or hostel type accommodation where the Council deems existing use rights are lost as it is unlikely the existing building will comply with the bulk and location controls that apply to residential activities to generate an appropriate level of on-site amenity for a multi-unit development, even though this may not be necessary for the provision of transitional or temporary accommodation.

Palmerston North District Plan

Community House	<i>Means land and/or buildings in which board and live-in health care or support is provided for more than five people. This includes homes for the elderly and halfway houses.</i>
Residential Centre	<i>Means land and/or buildings where long term accommodation is provided for more than five people. This includes hostels associated with tertiary and secondary educational institutions</i>

Transitional residential accommodation has been deemed to fall within the definition of community housing by the Council. This has been due to the support services (eg: financial planning, career advisory) that are often provided as part of the provision of transitional residential accommodation by MSD. Had these services not been provided, the transitional residential accommodation would have fallen outside the definition of community housing.

Where transitional residential accommodation is located within an existing building, it will often not comply with performance standards for community housing and trigger the need for resource consent as the scale or intensity of the use of the building is deemed to have changed.

Hastings District Plan

Residential Activity	<i>The use of land and buildings by people for the purpose of permanent living accommodation, and includes, residential buildings, residential unit buildings, supplementary residential buildings, and associated accessory buildings</i>
Visitor Accommodation	<i>Any premises used for transient accommodation for not more than 50 days in any twelve-month period by any given individual, including motels, holiday or tourist flats, hostels, homestays, boarding houses, private hotels, motor and tourist lodges, but does not include camping grounds, any premises used for the sale of liquor and seasonal accommodation</i>

Transitional residential accommodation does not fit within the definition of a Residential Activity, nor does it meet the definition of Visitor Accommodation. The Council has therefore assessed proposals for emergency/temporary accommodation as requiring resource consent as a Non-Complying Activity due to it being an activity not provided for in the District Plan.

Christchurch District Plan

Community housing unit	<i>In relation to the Community Housing Redevelopment Mechanism, means a residential unit owned, let or to be let by or on behalf of the Council, Housing New Zealand Corporation, a not-for-profit housing entity or a registered community housing provider (under Part 10 of the Housing Restructuring and Tenancy Matters Act 1992) as social housing.</i>
Residential unit	<i>Means a self-contained building or unit (or group of buildings, including accessory buildings) used for a residential activity by one or more persons who form a single household. For the purposes of this definition a building used for emergency or refuge accommodation shall be deemed to be used by a single household; where there is more than one kitchen on a site (other than a kitchen within a family flat or a kitchenette provided as part of a bed and breakfast or farm stay) there shall be deemed to be more than one residential unit; a residential unit may include no more than one family flat as part of that residential unit.</i>
Residential activity	<i>The use of land and/or buildings for the purpose of living accommodation. It includes: a residential unit, boarding house, student hostel or a family flat (including accessory buildings); emergency and refuge accommodation; and sheltered housing.</i>
Sheltered housing	<i>Means a residential unit or units used solely for the accommodation of persons for whom on-site professional emergency care, assistance or response is available, but not where residents are detained on the site.</i>
Social housing complex	<i>Means a group of residential units that are owned or operated by Housing New Zealand Corporation, the Council, a not-for-profit housing entity or a registered community housing provider (under Part 1 of the Housing Restructuring and Tenancy Matters Act 1992), including where one of these parties is in a public/private development relationship to provide mixed tenure housing; and provided to help low and modest income households and other disadvantaged groups to access appropriate and secure housing that is affordable.</i>

There are a number of definitions in the District Plan under which transitional or temporary social accommodation may fall so there is ambiguity around where it would sit. The District Plan provides a definition for Social Housing Complex, but this is specific for a group of residential units that are owned or operated by Housing NZ, the Council, a not for profit housing entity or a registered community housing provider.

This definition is at odds with the rules of the District Plan as rule 14.4.1.1 P5 provides for public housing complexes “up to and including 4 residential units” which seems to indicate a range of units from 1 to 4,

but the definition does not provide for 1 single unit. Council's interpretation to-date is that social housing is classified as a residential activity and therefore subject to residential rules.

Wairau/Awatere Resource Management Plan (Marlborough District Council)

Residential activity	<i>Land and buildings used by people for the purpose of living accommodation where occupiers voluntarily intend to live at the site for a period of one month or more and will generally refer to the site as their house and permanent address; and includes accessory buildings and leisure activities. For the purposes of this definition, residential activity shall include emergency and refuge accommodation but does not include visitor accommodation, camping grounds or homestays</i>
Residential unit	<i>Means a residential activity which consists of a single self-contained housekeeping unit, whether of one or more persons, and includes accessory buildings and a family flat. Where more than one kitchen facility is provided on the site, other than a kitchen facility for a family flat there shall be deemed to be more than one residential unit. For the purposes of this definition a residential unit shall include a holiday home, emergency unit or refuge.</i>

Transitional residential accommodation is provided for as a residential activity, which is normally a permitted activity in a residential zone subject to built form standards. However, the rules are generally designed for detached dwellings and are not adapted to the transitional housing needs (eg: repurposing a motel building) and the need for resource consent can rely on the interpretation of Council officers.

Hamilton City District Plan

Managed Care Facilities	<i>Means land or buildings, in which residential accommodation, supervision, assistance, care and/or support are provided by another person or agency for residents. For the purpose of calculating the number of residents, account shall be taken of owners and/or staff and any of their children aged 16 years or older who reside on the premises. All other staff are excluded from that calculation. They include but are not limited to, emergency housing and rehabilitation centres...</i>
Emergency Housing	<i>Means any Managed Care Facility in which temporary residential accommodation, care and/or support are provided by another person or agency for five or more residents (including children) on an emergency basis or for their personal protection. For the purpose of calculating the number of residents, account shall be taken of owners and/or staff and any of their children aged 16 years or older who live on the premises. Including, but not limited to night shelters and women's refuges.</i>

Residential Activities	<i>Means the use of land and buildings by people for living accommodation (whether or not any person is subject to care or supervision).</i>
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The relevant rules relating to Managed Care Facilities and emergency housing in the Hamilton City District Plan are very ambiguous. It is our interpretation that a site may accommodate between 5 to 10 people for emergency housing purposes (i.e. transitional / temporary accommodation), before resource consent is required. If the number of people within the site utilising the premises falls below 5 people, or above 10 people, then resource consent would be required.

APPENDIX 2: TRANSITIONAL HOUSING FACT SHEET



Transitional housing fact sheet

Transitional housing provides warm, dry and safe short-term accommodation for people in need, along with tailored support.

The programme is led by the Ministry of Social Development (MSD) with collaboration from Housing New Zealand, transitional housing providers, and the wider housing sector.

It is managed by contracted providers who are responsible for making sure the homes are warm, dry and safe, and ensuring the properties are well-maintained. They also look after the individuals and families living there, help them access any support they need, such as budgeting advice or social services, and help them find longer-term housing.

Transitional housing is not the same as an Emergency Housing Special Needs Grant (EH SNG). The EH SNG is a one-off grant to cover immediate housing costs for a period of seven days.

Who is transitional housing for?

Transitional housing provides short-term housing for individuals and families who don't have anywhere to live and have an urgent need for a place to stay.

They are likely to already live and work in the community, with children going to local schools.

Families could be in this situation for a number of reasons, such as the place they were renting being sold, or no longer being able to stay with family.

In all situations they will have struggled to find a place to rent, and will have been assessed by Work and Income as having the greatest priority.

Families and individuals stay in transitional housing for an average of 12 weeks or more while they are helped to find more permanent housing.

In most cases, they also receive a further 12 weeks support once they have found a more permanent place to live.

People living in transitional housing pay rent of up to 25% of their income, which is in line with income-related rents for public housing. The balance is subsidised to providers by MSD.

Where is transitional housing located?

There are more than 2,300 transitional housing places across New Zealand.

Transitional housing is diverse. In some cases individual, stand-alone residential homes can be used for transitional housing. In other cases it may be larger developments, such as former motels or purpose-built housing.

More information

More information on transitional housing is available on our website: www.msd.govt.nz; or you can email us at housing@msd.govt.nz.

People who need help with housing should contact Work and Income on 0800 559 009.