

Auckland Unitary Plan

Practice and Guidance note

Accessory Buildings and the use of Medium Density Residential Standards (MDRS)

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1 Introduction

A practice question arises as to whether accessory buildings can utilise the Medium Density Residential Standards (**MDRS**) where they are accessory to up to three dwellings on a residential site.

Interpretation

Auckland Unitary Plan (Operative in Part) section reference: PC78 Rules H5.4.1(A31) and (A31A)

Only the permitted activity rule authorising up to three residential units per site in a relevant residential zone and in accordance with all density standards set out in Schedule 3A has immediate legal effect under section 86BA(1) of the Resource Management Act 1991 (**RMA**).

As Accessory Buildings are not residential units, they are not able to use the Medium Density Residential Standards MDRS as a permitted activity. As the Auckland Unitary Plan (Operative in Part) (**AUP (OP)**) standards apply to accessory buildings, resource consent will be required if the operative AUP (OP) standards are not met. Where resource consent for the accessory building is obtained the MDRS will still be available for a permitted residential unit development on the same site.

2 Issue

The **MDRS** have immediate legal effect under section 86BA(1) of the RMA for the construction and use of buildings, if those buildings are residential units, comply with all MDRS standards and do not exceed more than three units per site. That is, the only rule in Plan Change 78 (**PC 78**) which has immediate legal effect is the rule which authorises as a permitted activity a residential unit in a relevant residential zone in accordance with the density standards set out in Part 2 of Schedule 3A of the RMA.

PC 78 addresses accessory buildings associated with residential units as a separate activity rule to those which relate to the residential units themselves. That is, they are separately listed in the zone activity table and are therefore not part and parcel of a residential unit activity.

As the PC 78 activity rules relating to accessory buildings do not have immediate legal effect, any accessory buildings would fall to be assessed and considered under the applicable operative AUP (OP) rules.

3 Discussion

3.1 The difference between residential units and accessory building?

'Residential unit' is now defined in section 2 of the RMA to mean a building or part of a building that is used for residential activities exclusively by one household and includes sleeping, cooking, bathing, and toilet facilities and the definition of dwelling in Chapter J1 of the AUP (OP) is proposed by PC 78 to expressly include a residential unit, which has the same meaning as in section 2 of the RMA.

PC 78 does not change the definition of 'Accessory buildings' in the AUP (OP), which is defined as:

“Buildings used in a way that is incidental to the use of any other buildings on that site, or on a vacant site, a building that is incidental to any use which may be permitted on that site.

Excludes:

- *dwellings.”*

Application of these definitions:

Residential units and Accessory Buildings are therefore different activities.

To fall within the Accessory Building rule within the activity table the building must be ancillary to a residential unit on site and detached from it.

4 Practice

If an accessory building is physically separately from and its use incidental to that of a residential unit, then the MDRS with immediate legal effect do not apply to it. The AUP (OP) standards of the relevant zone will apply.

This includes a sleepout that is physically detached without a kitchen/food preparation facility as it is not a minor dwelling (see [Minor Dwelling PGN](#)).

Conversely, a garage physically connected to a dwelling will not be accessory but part of the residential unit and the MDRS can apply to the overall building if there are no more than three residential units per site, all MDRS are met and there are no qualifying matters applicable to the site.

As an accessory building, the operative yard, height, height in relation to boundary and building coverage standards will be those that apply to these structures in the relevant AUP (OP) zone.

These outcomes are illustrated in the following figures:

Figure 1
Detached Accessory building assessed against the relevant standards of the Operative Plan

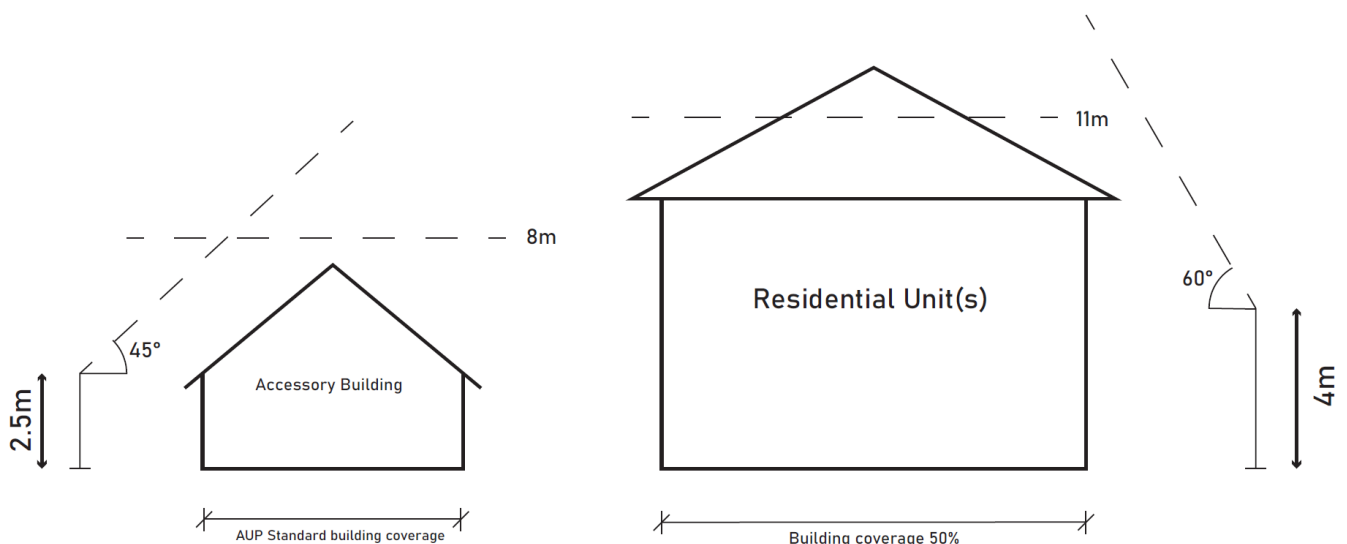
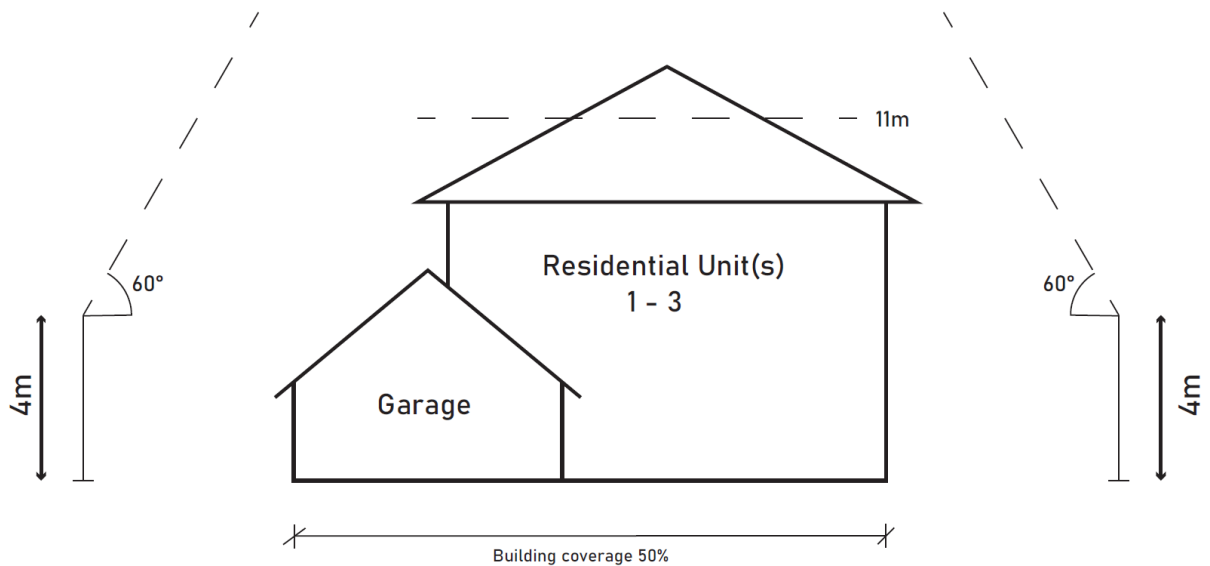


Figure 2

Accessory spaces within a dwelling assessed against the MDRS (all standards are met)



Where compliance with AUP (OP) rules or standards are not met

Non-compliance with an operative AUP (OP) standard for the separate accessory building will not prevent the use of the MDRS standards for the permitted activity of up to three residential dwellings on the same site. That is because dwellings and accessory buildings are different activities within the activity table.

Likewise for sites within the Special Character Areas -Residential (SCAR) Overlay of the AUP (OP), whether or not the site is to remain within the SCAR Overlay under PC 78, the current rule will apply to an accessory building. That is, a consent will be needed for a new or relocated accessory building that infringes the AUP (OP) standards.

The above consenting needs are similar to that where the construction and use of dwellings is a permitted activity, but a resource consent is required for other reasons. Once granted it will not prevent the use of MDRS for up to 3 residential dwellings on the same site as a permitted activity.

Building coverage

The maximum building coverage for a site is the total coverage of all buildings, that is, for both dwellings and accessory buildings. While up to 3 dwellings can take advantage of the 50% MDRS building coverage rule which has immediate legal effect (assuming all the density standards are complied with) an accessory building cannot because the MDRS do not have immediate legal effect for those buildings. The more restrictive operative building coverage rule applies to the accessory building, which may mean that consent is needed for another infringement. In practice there may be a relevant permitted baseline which can be applied, or designers may seek to incorporate internal garaging as part of a dwelling where the MDRS are available to be used.