

s 9(2)(a)

Dear s 9(2)(a)

On Friday 6 March 2020 you emailed the Ministry of Transport requesting 38 briefings under the Official Information Act 1982 (the Act).

On Monday 9 March 2020, the Ministry of Transport partially transferred your request for the document; *December 2019 update on the National Policy Statement on Urban Development* to the Ministry for the Environment (the Ministry) under section 14(b)(i) of the Act as this briefing was not held by the Ministry of Transport.

This document was jointly prepared by the Ministry for the Environment and the Ministry for Housing and Urban Development and is partially released to you.

This document is partially released to you with some information withheld under the following sections:

- 9(2)(a) to protect the privacy of natural persons
- 9(2)(f)(iv) to maintain the constitutional convention protecting the confidentiality of advice tendered by Ministers and officials where the release of the advice would prejudice the orderly and effective conduct of government decision making processes
- section 18(d) as the requested information will soon be publicly available. The Summary of Submissions of the National Policy Statement on Urban Development will be released within the next four weeks.

In terms of section 9(1) of the Act, I am satisfied that, in the circumstances, the withholding of this information is not outweighed by other considerations that render it desirable to make the information available in the public interest.

You have the right to seek an investigation and review by the Office of the Ombudsman of my decision to withhold information relating to this request, in accordance with section 28(3) of the Act. The relevant details can be found on their website at: www.ombudsman.parliament.nz.

Please note that due to the public interest in our work the Ministry for the Environment publishes responses to requests for official information on our [OIA responses page](#) shortly after the response has been sent. If you have any queries about this, please feel free to contact our Executive Relations team: ministerials@mfe.govt.nz.

Yours sincerely



Lesley Baddon
Director, Natural and Built Systems



Briefing

December 2019 update on the National Policy Statement on Urban Development			
Date:	11 December 2019	Security level:	In Confidence
Priority:	Medium	Report number:	BRF19/20110512 2019-B-06275

Action sought		
	Action sought	Deadline
Hon Phil Twyford Minister of Urban Development	Meet with officials in February to discuss policy issues relating to the National Policy Statement on Urban Development	20/12/2019
Hon David Parker Minister for the Environment		20/12/2019

Contact for discussion			
Name	Position	Telephone	1st contact
Caleb Johnstone	Manager, Market and Supply Responses (HUD)	021 843 262	✓
Liz Moncrieff	Manager, Natural and Built Systems (MfE)	022 048 2314	✓
Harry Harknett	Policy Advisor, Market and Supply Responses (HUD)	s9(2)(a)	

Other agencies consulted
N/A

Minister's office to complete

<input type="checkbox"/> Noted <input type="checkbox"/> Seen <input type="checkbox"/> Approved <input type="checkbox"/> Needs change <input type="checkbox"/> Not seen by Minister <input type="checkbox"/> Overtaken by events <input type="checkbox"/> Declined <input type="checkbox"/> Referred to (specify) <hr/>	Comments
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Date returned to MHUD:

Briefing

December 2019 update on the National Policy Statement on Urban Development

For: Hon Phil Twyford, Minister of Urban Development
Hon David Parker, Minister for the Environment

Date: 11 December 2019

Security level: In Confidence

Priority: Medium

Report number: BRF19/20110512
2019-B-06275

Purpose

1. This briefing:
 - a. provides you with an update on identified policy issues relating to the National Policy Statement on Urban Development
 - b. requests meetings with you in February to discuss these policy issues and other matters related the National Policy Statement on Urban Development.

Executive summary

2. The proposed National Policy Statement on Urban Development (NPS-UD) will give national direction to enable growth and encourage liveable urban environments under the *Resource Management Act 1991* (RMA). It replaces the National Policy Statement on Urban Development Capacity 2016 (NPS-UDC), building on the NPS-UDC's existing requirements for greater development capacity as well as broadening its focus and adding significant new content.
3. The Ministry of Housing and Urban Development (HUD) and the Ministry for the Environment (MfE) consulted publicly on the NPS-UD from 21 August until 10 October. This included seeking written submissions and holding public and stakeholder meetings. 256 submissions were received from a variety of submitters including local authorities, industry and professional groups, as well as individuals.
4. Submissions were broadly supportive of the intent of the NPS UD, although submitters raised a wide range of potential issues and improvements to policy content. A number of common themes have been identified across both supporting and opposing submissions. In particular, there was significant concern about the dependency of the success of the NPS-UD on infrastructure funding, and the risks of directive policies unduly limiting local autonomy.
5. Officials have analysed these submissions and prepared a summary (attached at **Annex B**) and have identified key policy and technical issues we would like to discuss with you in February. Key policy issues include:
 - a. **Targeting:** whether prescriptive policies are appropriately targeted or if some should apply to other councils
 - b. **Enabling development:** the level of margins required to facilitate competitive markets and how the ongoing monitoring of take-up may achieve a similar intent

- c. **Further greenfield development:** how to achieve the intent of this policy within the existing resource management framework
 - d. **Intensification:** how to require intensification where it is most needed to address national scale housing supply issues, while having consideration for local environments and conditions
 - e. **Engagement with Māori:** whether further support is required to prevent the proposed provisions from straining the resources of both Māori communities and local authorities
 - f. **Further directive intervention:** identifying any issues unnecessarily inhibiting urban development that will not be addressed through the NPS-UD and might require further directive intervention
 - g. **Implementation, enforcement and incentives:** ensuring the implementation of the NPS-UD with the tools government has available for monitoring, support and enforcement
 - h. **Interactions:** how to best align and manage interactions between national direction instruments, including the Essential Freshwater package and the National Policy Statements on Highly Productive Land and Indigenous Biodiversity
6. Officials would like to discuss these issues with you prior to finalising our advice and are talking to your offices about a set of meetings to support your decisions. More detailed advice on each of these will be provided ahead of these meetings and after we have met with the technical advisory panel in January.

Released under the provisions of the Official Information Act 1982

Recommended actions

7. The Ministry of Housing and Urban Development and Ministry for the Environment recommend that you:

	Min Twyford	Min Parker
<p>1. Agree to meet with officials in February to discuss policies of the NPS-UD, with the following proposed agendas:</p> <ul style="list-style-type: none"> Meeting One: Overview of the Technical Advisory Panel process and quality urban environments policy Meeting Two: intensification, amenity and Māori engagement policies Meeting Three: Future Development Strategies, Housing and Business Development Capacity Assessments, providing for further greenfield development and enabling opportunities for development policies Meeting Four: car parking policy, further directive intervention and implementation 	<p><i>Agree / Disagree</i></p>	<p><i>Agree / Disagree</i></p>



Caleb Johnstone
Manager, Market and Supply Responses
21/12/19

Hon Phil Twyford
Minister of Urban Development
 / /



Liz Moncrieff
Manager, Natural and Built Systems
21/12/19

Hon David Parker
Minister for the Environment
 / /

Background

8. The proposed National Policy Statement on Urban Development (NPS-UD) will provide national direction under the *Resource Management Act 1991* (RMA) and intends to enable growth by requiring councils to provide development capacity to meet the diverse demands of community, address overly restrictive rules, and encourage quality, liveable urban environments.
9. The NPS-UD will replace the National Policy Statement on Urban Development Capacity 2016 (NPS-UDC). The new NPS-UD will build on many of the existing requirements for greater development capacity but will broaden its focus and add significant new content.
10. HUD and MfE consulted publicly on the NPS-UD from 21 August until 10 October. A discussion document, *Planning for successful cities* (the discussion document), set out the purpose of the NPS-UD, proposals and context – including identifying key issues within the current system that may impede achieving the Government's urban development objectives.
11. As agreed with Ministers an alternative officials-led process is being used to further develop the proposed NPS-UD under section 46A (4) of the RMA, with an independent review by a technical advisory panel (TAP) as agreed by the Urban Growth Agenda (UGA) Ministers. The panel has been appointed and is made up of Greg Hill (Chair), Claire Kirman, Antoine Coffin and Craig Stewart.
12. Officials have now undertaken submissions analysis and provided a draft summary of a submissions report to the TAP, alongside a summary of policy options. An expected timeline for the ongoing development on the NPS-UD is attached as **Annex A**. The draft summary of submissions report is attached to this briefing as **Annex B**.

Overview of submissions

Consultation on the NPS-UD ran alongside that of other national direction

13. Consultation on the NPS-UD was coordinated with consultation on the National Policy Statement on Highly Productive Land (NPS-HPL) and the Essential Freshwater package. The process also included a joint roadshow across 3 weeks and more than 30 locations across New Zealand, including meetings with local authorities, public, and iwi.
14. HUD and MfE also met with the local authorities of "Major Urban Centres" (MUCs) and key stakeholder industry groups in August and September to discuss the proposed NPS-UD in particular.
15. Due the practicalities of submissions processes and analysis, late written submissions were accepted unconditionally until 14 October, and under certain conditions until 31 October.
16. In total, 256 written submissions were received and represented interests from a range of sectors and perspectives including local government (43), business and industry (18), infrastructure providers (17), individuals (80), Māori including iwi and hapū (8), central government (2), crown entities (9), academic/research communities (8), planning or urban design professionals (18), developers (15), community groups including heritage and NGOs (26), horticultural sector (2) and professional bodies (10). There was broad support for the intent of the policy
17. Submitters largely supported the intent of the NPS-UD and the objectives and policies outlined in the discussion document. Submitters were generally supportive of the proposed NPS-UD because they considered that:
 - a. the NPS is an appropriate tool to help provide for quality urban environments
 - b. intensification should occur close to public transport and other amenities
 - c. it makes sense to target policies where the housing challenges are greatest
 - d. it will minimise the compliance costs for smaller local authorities

- e. evidence based strategic decision making will help ensure development meets demands.

When submitters opposed the NPS-UD, it was particularly due to concerns about technical areas or taking local needs into account

18. Common reasons for opposing the proposed NPS-UD included:
 - a. a one-size fits all approach is not appropriate or likely to be effective because each local area has different needs and priorities
 - b. the status quo effectively addresses the issues the policy aims to fix and there is no need for further regulation.

Analysis of supporting and opposing submissions identified a range of common concerns

19. These concerns, shared by submissions both supporting and opposing a range of policies, include those identified in the table below:

Concern	Feedback
Scope of objectives and policies	The NPS-UD should focus on intensification within existing urban areas and not greenfield development, or "up not out". The scope of many of the objectives and policies could be widened to include elements such as climate change, heritage value and natural hazards.
Clarity of objectives and policies	Improvements to the clarity of the objectives and policies outlined will make the NPS-UD work better.
One-Size-Fits-All approach	A one-size-fits-all approach may not be effective because each local area has different needs and priorities.
Infrastructure provision/funding	The effectiveness of the NPS-UD is dependent on the provision of infrastructure, both social and physical, to meet growth objectives. It is necessary to coordinate with government infrastructure planning.
Alignment with other national directions under the RMA	The NPS-UD needs to be clearly aligned with other national direction. Inconsistencies risk undermining their intent. Local authorities were looking for direction as to how to make trade-offs between these areas rather than determining this in a bespoke way at a local level.
Timeframes	The timeframes for the policies need to align with local authority planning practices to reduce compliance costs, mitigate the risk of engagement fatigue, and reflect the complexity of the decisions making process.
Cost of engagement policies	The proposed engagement policies may create resource pressures on the engaging parties (particularly Māori), and it may be necessary to provide support to ensure meaningful engagement occurs.

A number of key policy issues have been identified

20. Through submissions analysis a number of policy and technical issues have been identified that will require further consideration. We have had an initial discussion with the TAP on the 4th and 5th of December on these policy issues and options to address them. We will be sending further policy papers and draft NPS-UD text to the TAP for discussion in mid-January before we advise you in early February.
21. We would like to discuss these and other policy issues with you in February, as well as address issues your office has indicated that you would like an update on.

Targeting of policies / Classification of MUCs

22. The NPS-UDC directed its policies by establishing different tiers; high-growth and medium-growth councils. Councils were assigned to these tiers on a dynamic basis as modelled growth rates and other factors changed, and the different tiers had different requirements. Although flexible, this system had disadvantages; particularly a lack of certainty for councils about what is required of them when population projections changed, and the costs and risks associated with this.
23. To address this issue, the discussion document proposed to focus the most directive policies on the fastest growing areas with the largest urban pressures (the MUCs). This list was

established by taking into account population size and growth rates, and where housing challenges are having a national impact. Less prescriptive policies would apply to all urban environments of more than 10,000 inhabitants.

24. Submissions had several key themes:
 - a. a one-size-fits-all approach was not appropriate
 - b. some of the directive policies such as Housing and Business Development Capacity Assessments (HBAs) and Future Development Strategies (FDSs) could be extended to the former medium-growth councils
 - c. a dynamic system would be more appropriate than a set list.
25. Officials are focussing on two policy issues in regard to the targeting of the NPS-UD:
 - a. the need to balance the directive nature of policy for MUCs (particularly car parking and intensification) with flexibility to reflect the needs of different town centres and local communities within MUCs
 - b. whether there would be benefit to apply more prescriptive policies to a broader range of councils (particularly for the former high-growth and medium-growth councils under the NPS-UDC), either through extension of the MUC list or creation of another tier.
26. We have also heard that the high-growth and medium-growth council status has been used by central government agencies such as Kainga Ora and the Ministry of Education to inform their decisions.

Use of margins and 'take-up' in the provision of development capacity

27. The NPS-UDC required councils undertaking HBAs to add margins of 15 to 20 per cent on top of demand in order to account for feasible development capacity that might not be developed.
28. The discussion document included a proposal to separate these two concepts. It proposed including the concept of 'take-up' alongside the provision of feasible development capacity to meet the diverse range of demands for housing and business space. This would have the effect of significantly increasing the amount of development capacity, especially in existing urban environments. It also proposed keeping the margins, without changes to their size, with the purpose of creating an oversupply of capacity and thereby facilitating competitive land markets.
29. To determine what demand and how much development capacity is needed to be provided within plans, MUCs would undertake a robust assessment to ensure that district plan decisions reflect this.
30. Submitters were broadly supportive of the intent but raised concerns about the requirement to predict "likely take up", and stressed the importance of guidance to support implementation.
31. Key issues we are looking at in response to submissions and subsequent analysis include:
 - a. How to ensure medium to long-term projections of commercially feasible and likely to be taken up development capacity are flexible enough to reflect and adjust to changes in demand.
 - b. s 9(2)(f)(iv)
 - c. s 9(2)(f)(iv)

Providing for further greenfield development

32. The discussion document outlined an example policy that would seek to enable a responsive planning system to achieve competitive development markets. It aimed to do this by enabling

unplanned or out-of-sequence private plan changes, provided environmental effects could be managed and the full costs of growth would be carried within the development project for it to proceed.

33. Submissions were largely opposed to the policy on the grounds that the policy would undermine the intent of the rest of the NPS-UD, particularly the FDS and proposals for improved evidence-based decision making. Concerns included the impact this may have on trade-offs with strategic planning, potential impact on wider infrastructure networks and staff resourcing. There were also questions about how this example policy relates to the current plan change processes. Concerns were also raised relating to the inability of the NPS-UD to direct infrastructure funding under the RMA and the provision of new or upgraded infrastructure and overlap with the NPS-HPL.

34. s 9(2)(f)(iv)

Intensification

35. We consulted on intensification proposals that directed local authorities to provide for increased density in areas where those benefits are best realised – this is intended to address political bias toward the status-quo and maximise the benefits of densification in and around public transport and town centres.
36. Submitters were largely supportive of the concept of intensifying where the benefits are best realised. However, concerns were raised about the “one-size-fits-all” approach, and submissions were split between those that considered a prescriptive approach necessary to ensure that councils complied, and those that considered a prescriptive approach would unduly limit local autonomy. Submissions also requested clarity on terms such as “centres”, “frequent public transport” and “density”.
37. Key questions officials are considering include:
- how to allow flexibility for include local circumstances (both hierarchy of centres and when intensification might not be appropriate)
 - where it is appropriate (and conversely, not appropriate) to direct intensification
 - what levels of density are appropriate for the policy to direct
 - practicable timeframes for implementation alongside the implementation of the FDS policies in particular and other national direction obligations.

Māori engagement

38. The NPS-UD proposed a new objective and policies intended to help planning and urban development better reflect Māori interests, values and aspirations. The policies aimed to achieve this by:
- emphasising existing obligations under the RMA to consult with hapū and iwi, and extending this to the FDS
 - providing for whānau and hapū and to have their aspirations for whenua Māori¹ taken into account in planning decisions.
39. Submissions were generally supportive of the proposed policy intent. However, the feedback we received from hapū and iwi was more limited than we expected, particularly during the joined-up consultation.
40. Te Rūnanga o Ngāi Tahu and Waikato-Tainui both raised concerns in their submissions about the lack of engagement with Māori throughout the development of the proposed NPS-UD

¹ As defined in the *Te Ture Whenua Māori Act 1993*

and other national direction prior to public consultation. Both iwi expressed concerns that this lack of engagement is inconsistent with their status as Treaty partners.

41. We acknowledge that there has been limited engagement with iwi throughout the development of the NPS-UD. Officials had initial engagement with Māori technical planning and design experts to better understand iwi/Māori values and interests in urban national direction, and the hui held in September sought to seek feedback on the policies.
42. Officials are now working to determine:
 - a. what additional support may be required to prevent the proposed provisions straining the resources of both Māori communities and local authorities
 - b. if the policies and framing of the NPS-UD are consistent with Treaty settlement Acts and the Crown's obligation as a Treaty partner. This may require further targeted engagement and collaboration with iwi/Māori.

More directive intervention to enable quality urban environments

43. The discussion document asked for feedback on the concept of using other national direction tools as more directive intervention, either to prevent certain rules unduly limiting the types and forms of development that occur, or if a minimum level of development should be enabled anywhere.
44. Submissions analysis has identified varying support for a range of approaches, including:
 - a. the removal or standardisation of certain rules
 - b. the issuing of guidance around their use
 - c. requiring/enabling a certain level of development in some zones.
45. Submitters identified rules that they thought were barriers to development, and that they felt were important to maintain. For example, height and 'height-in-relation-to-boundary' rules received equal measure of support and criticism, while density rules (such as dwellings per site) had more critics relative to number of supporters. Concerns were nonetheless raised about a "one-size-fits-all" approach.
46. Officials are working out next steps for this work. This will include problem definitions and evidentiary requirements for different approaches. Choosing which tool to use (ie use of a National Environment Standard or National Planning Standards) will be a later step in the process.

Implementation

47. Feedback was received from councils about how they would like to be supported in implementing the NPS-UD. The most common methods raised by councils were: guidance documents (in particular, updating the guidance that was issued for the implementation of the NPS-UDC in 2016, and ensuring it was released concurrently with the NPS-UD coming into force), face-to-face workshops, and providing additional data and monitoring tools. Another option for supporting implementation could be facilitating a shared network between councils to share ideas and consult with colleagues on commonly-encountered issues. We are continuing to consider how best to support councils to implement the NPS-UD.

Interaction with other national direction instruments

48. Many submissions raised the importance of ensuring alignment between different pieces of national direction, in particular the NPS-HPL, the National Policy Statement on Indigenous Biodiversity and the Essential Freshwater package. Submitters were concerned that the proposed extent of national direction will make it difficult for decision-makers to weigh competing objectives and the potential for certain policies to directly conflict. This in turn could lead to additional costs (in both time and money) from legal processes, strains on council resourcing, and transactional costs for communities and developers, in addition to the erosion of one or more of the pieces of national direction by decision makers or the courts.

49. Submitters perceived particular tensions between growth “out” under the NPS-UD and the protection of highly productive land under the NPS-HPL, and conflicting approaches to stream diversion and culverting under the NPS-UD and the Essential Freshwater package.
50. Submitters also asked if certain parts of the policy could be used to align the national direction, including the process of developing FDSs or references to features such as water quality or indigenous biodiversity in the quality urban environment policy.
51. Officials across the relevant work programmes are working to identify interactions between the pieces of national direction, such as where they may constrain urban growth. We are also looking to arrange for Minister O’Connor to attend the relevant meeting in February which will include how urban areas grow out (Meeting Three).

Next steps

52. The UGA meeting agenda on 17 December will include a noting item on the NPS-UD, which is a short update on the summary of submissions.
53. If you agree to meet, officials will organise a series of meetings with you in February to discuss key policy areas. We propose the following the following agendas:
 - a. Meeting One: overview of the Technical Advisory Panel process and quality urban environments policy
 - b. Meeting Two: intensification, amenity and Māori engagement policies
 - c. Meeting Three: Future Development Strategies, Housing and Business Development Capacity Assessments, providing for further greenfield development and enabling opportunities for development policies
 - d. Meeting Four: car parking policy, further directive intervention and implementation
54. We also propose that Minister O’Connor should be invited to attend the meeting on how urban areas grow out (Meeting Three) and that Minister Genter be invited to attend the meeting on carparking (Meeting Four).
55. Further next steps and expected timelines for the development of the NPS-UD can be found in **Annex A**.

Annexes

56. Annex A: Expected Timelines for the Development of the NPS-UD
57. Annex B: Draft Summary of Submissions Report

Annex A: Expected Timelines for the Development on the National Policy Statement on Urban Development (NPS-UD)

Deliverable	Due date
Officials workshop with TAP	4-6 December
Ministerial update (and UGA Ministers update)	11 December
Officials workshop with TAP	16-17 January
<p>Officials meet with Ministers (if you agree) to discuss the following policy areas:</p> <ul style="list-style-type: none"> • Meeting One: overview of the Technical Advisory Panel process and quality urban environments policy • Meeting Two: intensification, amenity and Māori engagement policies • Meeting Three: Future Development Strategies, Housing and Business Development Capacity Assessments, providing for further greenfield development and enabling opportunities for development policies • Meeting Four: car parking policy, further directive intervention and implementation 	February
Recommendations report and supporting package to Ministers	Late February
Finalising package for Cabinet (including agency engagement)	April
Ministerial consultation	May
Cabinet Committee and Cabinet	June
NPS-UD Gazetted	Late June

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