

## 2019-B-05622 Material for Ministerial Consultation on the proposed National Policy Statement on Urban Development

Date Submitted:	14 June 2019	MfE #: 2019-B-05622	HUD tracking #: BRF18/19030194
Security Level	In Confidence	Priority:	Non-Urgent

	<b>Action sought:</b>	<b>Response by:</b>
To Hon David Parker, Minister for the Environment	Agree to recommendations	19 June 2019
To Hon Phil Twyford, Minister of Housing and Urban Development		

Actions for Minister's Office Staff	<p><b>Forward</b> this briefing and the attachments to Hon Nanaia Mahuta, Minister of Local Government, Hon Shane Jones, Minister of Infrastructure and Hon Julie Anne Genter, Associate Minister of Transport.</p> <p><b>Return</b> the signed report to MfE and HUD.</p> <p>If agreed, <b>distribute</b> the draft Cabinet paper for Ministerial consultation.</p>
Number of appendices and attachments 3	<p>Titles of appendices and attachments (ie, separate attached documents):</p> <ol style="list-style-type: none"> <li>Draft Cabinet paper for Ministerial consultation</li> <li>Draft discussion document</li> <li>Regulatory Impact Statement</li> </ol> <p style="color: red;">Appendices 1-3 have not been released because their final versions are on the Ministry for the Environment website</p>
Note any feedback on the quality of the report	

### Ministry for the Environment contacts

Position	Name	Cell phone	1 <sup>st</sup> contact
Principal Author	Fleur Rodway	–	
Responsible Manager	Liz Moncrieff	022 048 2314	
Director	Lesley Baddon	021 738 357	✓
HUD Responsible Manager	Caroline Reid	021 872 440	

### Purpose

- This briefing provides you with a draft Cabinet paper (Appendix 1) seeking agreement to consult publicly on a proposed National Policy Statement on Urban Development (NPS-UD), the draft discussion document (Appendix 2), and the Regulatory Impact Statement (Appendix 3) for Ministerial consultation ahead of consideration at Economic Development Committee on 24 July. The draft Cabinet paper and discussion document have been amended to respond to Minister Twyford's feedback to:
  - better reflect the Urban Growth Agenda (UGA) narrative
  - add a new policy proposal for greenfield development
  - seek feedback on more directive intervention in Resource Management Act 1991 (RMA) plans.

## Advice

### *Embracing the UGA narrative and making room for growth*

2. Changes have been made throughout the Cabinet paper and draft discussion document to reflect the UGA narrative. In the draft discussion document these changes are most apparent in the Message from Ministers (page four) and in the executive summary (page five).
3. The draft discussion document has also been revised to:
  - add a new policy proposal for greenfield urban development (page 40)
  - suggest options and seek feedback on more directive intervention in RMA plans to better enable quality urban development (page 45)
  - clarify that objectives and policies addressing quality urban environments and intensification apply to both existing and future urban (greenfield) environments (page 26).
4. Instead of draft objectives and policies, the proposal on greenfield development provides suggested policy wording. The limited timeframe has meant we have been unable to do the necessary amount of analysis. We consider this wording will help mitigate the risks from consulting on a fully drafted policy.
5. As noted in the previous briefing (2019-B-05602 refers), and subsequent discussions, it is unlikely that we will have the evidence post-consultation to include options for more directive intervention in RMA plans in the proposed NPS-UD during this parliamentary term. However, this work, to ensure plans will better enable quality urban development, will inform the scoping and development of any future national direction to support the proposed NPS-UD.
6. We have focused on getting the right content into the revised draft discussion document. We will format the document, continue to work on the integration and flow of the text and ensure we are asking the right questions to support analysis of final recommendations while the proposals are out for Ministerial consultation.

*We have amended the policy options and narrative on car parking to propose another option to remove car parking regulation more generally*

7. In response to feedback from Minister Genter and advice from the Crown Law Office (CLO), we have amended the draft discussion document to propose another option to remove car parking regulation more generally, while using alternative parking management techniques. On the advice on the CLO, we have amended the narrative to more directly reflect the sustainable management requirements of the RMA to support these very directive policies (page 42).

### *Impacts on Māori, sites of significance to Māori and Māori housing aspirations*

8. Minister Mahuta provided comment on possible impacts on sites of significance to Māori, impacts on Māori whānau household wellbeing, and rights of first refusal. The proposals in the proposed NPS-UD will not directly impact existing protection for sites of significance to Māori under the RMA, nor will the proposals affect rights of first refusal. Policy P9A (page 60 of the discussion document) aims to ensure RMA planning processes take into account iwi, hapū and whānau aspirations for whenua Māori. Officials have also included a specific question to seek feedback during public consultation on the likely impacts of the proposed NPS-UD on iwi, hapū and Māori more broadly.

### *Providing information on the Government's coordinated approach to national direction*

9. Minister Mahuta's feedback sought better articulation of the relationship between the NPS-UD and the range of national direction under development and already in place. We have revised in the draft discussion document to describe the Government's coordinated approach to national direction and to include material on likely interactions between the NPS-UD and

other proposed national direction (page 66).

10. The Minister for the Environment will be provided with advice on national direction interactions later in June.

*We have made other amendments to policy on CLO advice*

11. The most substantial of the CLO's recommendations were to revise the policies on the role of urban Māori authorities and the Future Development Strategy (FDS) in RMA planning processes. We have made amendments to policies to ensure that:
  - the policies on the role of urban Māori authorities reflects the primary relationship between iwi and hapū, and the Crown as Treaty partners, and that engagement policies with iwi and hapū do not go further than provided for under the RMA
  - FDSs do not predetermine outcomes in RMA plan processes. For example, local authority plans can only be required to "have particular regard" to an FDS, they cannot be required to "give effect to" an FDS. This limitation on the role and weight of strategic plans in the current RMA system is a topic that we are considering as part of UGA Pillar Five on future legislative reform.

*Continuing work to ensure the proposed NPS-UD supports a flexible planning system*

12. Ministers expect the proposed NPS-UD to support a flexible planning system that provides for expected growth while also responding to changing demands. To respond to this expectation we are progressing work to improve the Housing and Business Development Capacity Assessment (HBA) policies, which set technical expectations about how local authorities assess the needs of current and future communities and enable opportunities in their plans to meet them.
13. Feedback from local authorities on the implementation of the National Policy Statement on Urban Development Capacity 2016 and its evidence requirements also suggest a need to review the current HBA provisions to ensure they are fit for purpose.
14. Officials are currently working on these HBA policies with a technical advisory group made up of experts from local authorities in the major urban centres. This group will draft proposals for new and/or amended methods, and provide these for public consultation in mid-August 2019. At that point the new information, alongside the already released consultation material, will be made available proactively to key stakeholders and the public. In addition, any person who has already made a submission will be notified that they can also comment on the new information (see page 52 of the discussion document).
15. The addendum being issued will be on the specific information required to complete the HBA. Provided Cabinet Ministers agree to the broad scope of the policy in the discussion document, we do not think it is necessary for this technical policy detail be subject to further Ministerial review before being released for public consultation. The Cabinet paper seeks delegated authority to issue this addendum without needing to go back to Cabinet.
16. The HBA policies will be open for public consultation for four to six weeks. We believe this truncated period is acceptable because the policies will have been developed and tested in collaboration with the stakeholders who will have to implement the policies. However, there are risks because the HBAs are a considerable investment for councils. Our experience with the NPS-UDC 2016 has shown that, as the assessment process is technically complex, the policies should be thoroughly tested and reviewed before being finalised.

*Regulatory Impact Statement partially meets requirements*

17. The Regulatory Impact Assessment Panel finds that the RIS partially meets the requirements of an assessment on the basis that it will be revised and amended once it has been out for consultation. After consultation a cost-benefit analysis as required under section 32 of the RMA will be undertaken on final recommendations to support analysis for Ministerial consideration.

*The Minister for the Environment must notify the public and iwi authorities of the proposed national direction prior to consultation*

18. Section 46A of the RMA requires the Minister for the Environment to notify the public and iwi authorities of the proposed national direction and the reasons the proposal is consistent with the purpose of the RMA. If Cabinet agrees to consult, officials will arrange notification online and in the major daily newspapers. The draft discussion document contains a statement about consistency with the purpose of the RMA on page 15.
19. Section 46A also requires that the process for consultation provides the public and iwi authorities with adequate time and opportunity to make submissions on the subject matter of the national direction. We have previously proposed (2019-B-05258 refers) an eight-week public consultation period for written submissions which will end prior to local government elections. We consider eight weeks to provide an adequate, but the minimum amount of time and opportunity for the public and iwi authorities to make submissions.
20. The HBA addendum will be available for most of this period (four to six weeks as outlined above). We are satisfied that the requirements around adequacy and opportunity are still met even with this split process. Officials are planning to visit the major urban centres to meet with iwi, local government and key stakeholders during the consultation period.

## Legal and Financial

*Support for implementation*

21. The Cabinet paper has been revised to note as part of the 2019 budget initiative that funding has been provided over four years to finalise the delivery of the new NPS-UD, prepare guidance material, conduct a first year road-show and provide other implementation support.

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## Consultation

23. Agencies were consulted on early versions of the draft Cabinet paper and discussion document. Due to time constraints, we have not consulted on the versions appended. We intend to provide these documents for further agency review at the same time that Ministerial consultation is taking place.

## Next Steps

24. The timeframe below for Ministerial consultation, to make changes to documents in response, and to lodge the Cabinet paper for consideration at Cabinet Economic Development Committee is very tight. If these dates are missed it will be very difficult to consult with iwi and the public before local government elections. This will have an impact on the ability to deliver the proposed NPS-UD in the first half of 2020.
25. Meeting these timeframes will limit the time available for Ministerial and cross-party consultation to 10 days starting on Monday 17 June and concluding before recess.
26. Once Ministerial consultation has been completed officials will make necessary changes to the Cabinet paper and draft discussion document, including proof-reading and formatting.

27. Minister Parker is away on the date of lodgement for Committee. To enable the Cabinet paper to be considered at the Cabinet Economic Development Committee on 24 July we recommend Minister Twyford lodge the paper on 11 July. Officials will work with Minister Twyford's office to support timely lodgement of the Cabinet paper.

28. The following table outlines the next steps in the process:

17 – 28 June	Ministerial and cross-party consultation
11 July	Final Cabinet paper, discussion document and Regulatory Impact Statement provided to the Minister of Housing and Urban Development
18 July	Minister of Housing and Urban Development lodges Cabinet paper with Cabinet Office
24 July	Cabinet Economic Development Committee meeting
29 July	Cabinet meeting
31 July	Iwi and local authorities are informed of public consultation
5 August – 27 September (8 weeks)	Public consultation
Mid-August	Addendum released

## Recommendations

### Minister for the Environment and Minister of Housing and Urban Development

We recommend that you:

- a) **Note** that the attached draft Cabinet paper and discussion document have been amended in response to feedback from Urban Growth Agenda Ministers and the Crown Law Office.
- b) **Agree** to circulate the draft Cabinet paper, discussion document and Regulatory Impact Statement for Ministerial feedback from 17 to 28 June, to enable Minister Twyford to lodge for consideration at Economic Development Committee on 24 July.

Yes/No

- c) **Note** that timeframes are extremely tight for each consecutive step of the process.
- d) **Note** that any slippage in timeframes will now impact on the ability to deliver the proposed NPS-UD by mid-2020.
- e) **Authorise** officials to make minor changes to the discussion document to improve the readability and flow, and consultation questions, prior to Cabinet committee consideration.

Yes/No

- f) **Agree** to officials notifying an addendum to the discussion document containing options for improving Housing and Business Development Capacity Assessments, developed with advice from a technical advisory group, by mid-August after the public consultation period has started.

Yes/No

- g) **Note** that the draft Cabinet paper seeks delegated authority to release this addendum without going back to Cabinet for consideration.

- h) **Agree** that this briefing will be released proactively on the Ministry for the Environment's website within the next eight weeks.

Yes/No

### Minister for the Environment

We recommend that you:

- i) **Agree** that the proposals in the discussion document on a proposed policy statement on urban development are consistent with the purpose of the Resource Management Act 1991.

Yes/No

- j) **Agree** that an eight week public consultation period from 5 August to 27 September 2019 provides adequate time and opportunity for the public and iwi authorities to make submissions on the proposal as required by section 46A of the Resource Management Act 1991.

Yes/No

### Signature

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



Caroline Reid  
**Acting Manager – Urban Development,  
Ministry for Housing and Urban  
Development**

Hon David Parker  
**Minister for the Environment**

Hon Phil Twyford  
**Minister of Housing and Urban  
Development**

Date

Date

**Appendix 1 Draft Cabinet Paper on Public Consultation on a Proposed National Policy Statement on Urban Development**

**Appendix 2 Draft Discussion Document on a Proposed National Policy Statement on Urban Development**



**Appendix 3 Regulatory Impact Statement**