

## **In Confidence**

### **Office of the Minister for the Environment**

### **Office of the Minister for Urban Development**

### **Chair, Cabinet Economic Development Committee**

### **National Policy Statement on Urban Development**

#### **Proposal**

1. We seek Cabinet's approval of the National Policy Statement on Urban Development (NPS-UD) prepared under the Resource Management Act 1991 (RMA). It will replace the National Policy Statement on Urban Development Capacity 2016 (NPS-UDC).
2. The NPS-UD (Appendix two) will require a minimum number of homes to be provided for in local authority Resource Management Act plans, and prohibit some rules that prevent housing from being built. It will help ensure improved housing affordability and improved opportunities for New Zealanders that live in our cities by requiring local authorities to enable more urban development and housing through their plans<sup>1</sup>.
3. Subject to Cabinet agreement, we intend to recommend the NPS-UD to the Governor-General in Council for her approval, and proceed to issue the NPS-UD by notice in the New Zealand Gazette.

#### **Relation to government priorities**

4. This proposal relates to the Government's priority of ensuring everyone has a warm, dry home. The proposed policies also support the Government's Economic Plan by contributing to the transformation of our housing market and improving productivity.

#### **Executive summary**

5. New Zealand has a severe housing crisis that impacts most on our poor, vulnerable and younger generations. Our planning and urban development systems have helped cause and worsen a large part of this crisis and has dramatically contributed to a lack of housing.

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<sup>1</sup> Defined in the NPS-UD as urban environments that, as a minimum:

- a) have or enable a variety of homes that:
  - (i) meet the needs, in terms of type, price and location, of different households; and
  - (ii) enable Maori to express their cultural traditions and norms; and
- b) have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and
- c) have good accessibility between housing, jobs, opportunities for social interaction, services, and public open spaces, including by way of public or active transport; and
- d) support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and
- e) support reductions in greenhouse gas emissions; and
- f) are resilient to the likely current and future effects of climate change.

6. Constraints in the planning system have meant local authorities are not providing enough development capacity for people to build and live in the homes they want. This has led to high land prices, unaffordable housing, and a system that incentivises land banking and speculation. It has also resulted in people having poor access to employment, education and social services. In short, under the current system, the cost of finding a home and living in our cities is too high.
7. The NPS-UD will require local authorities to open up more development capacity to provide housing at affordable price points (that is, they will need to change their RMA plans to enable more homes to be built). This will help New Zealanders build homes in the places they want – close to jobs, community services, public transport, and other amenities our communities enjoy.
8. The proposed policies will have a significantly positive impact across New Zealand. PwC estimates that the benefits of intensification alone would be approximately \$9 billion from now until 2043<sup>2</sup> - benefits that will be enjoyed most by renters, new entrants to the market, and future generations. Initial work by two local authorities indicates they would have to **increase development capacity by up to 40 percent** to meet new requirements under the NPS-UD.
9. Similarly, enabling developers, rather than councils, to decide how many carparks they will build in their developments will generate indicative benefits of \$670m, compared to indicative costs of approximately \$78m for a cost benefit ratio of 8.6<sup>3</sup>.
10. By requiring greater flexibility in planning practice, our cities will be better equipped to respond to a range of urban problems, from changing patterns of wealth inequality and housing affordability, to climate change and urban sustainability. This will also support higher productivity and wages and shorter commute times.
11. Introduced in 2016, the NPS-UDC aimed to increase the capacity available for development and the ability of the market to meet demands in growing cities; it has made some progress towards this aim. However, it did not provide direction on where development capacity should be provided. The NPS-UD provides direction to make sure capacity is provided in places accessible for people.
12. In 2017, this Government established the Urban Growth Agenda (UGA), to address underlying system constraints so we can have successful cities that maximise labour markets and opportunities. As part of the UGA, Cabinet agreed to consult publicly on a proposed NPS-UD and the Government consulted on this from 21 August to 10 October 2019.
13. The proposal contained objectives and policies in four key areas: future development strategies, making room for growth, evidence for decision-making and processes for engaging on planning.
14. Submitters were generally supportive of the intent of the proposed NPS-UD. However, submitters identified some issues, and based on their feedback we propose some changes to the proposal. These changes are supported by further analysis undertaken as part of the Cost Benefit Analysis and RMA section 32

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<sup>2</sup> The cost benefit ratio for each city tested is estimated at between four and seven.

<sup>3</sup> Cost benefit ratio is estimated for Auckland, Wellington, Christchurch, Queenstown and Hamilton.

analysis<sup>4</sup>. Some of these changes are minor and technical issues that do not change the policy approach consulted on, and only clarify the original policy intent. Other changes are substantive and are required to better achieve the intent of the objectives of the NPS-UD; these are described in detail and set out as recommendations in this paper.

15. The NPS-UD will require councils to:
  - a. plan well for growth and ensure a well-functioning urban environment for all people, communities and future generations
  - b. ensure urban development occurs in a way that takes into account the principles of the Treaty of Waitangi (te Tiriti o Waitangi) (emphasising existing requirements under the RMA)
  - c. ensure that plans make room for growth both 'up' and 'out', and that rules are not unnecessarily constraining growth
  - d. develop, monitor and maintain an evidence base about demand, supply and prices for housing and land, to inform planning decisions
  - e. align and coordinate planning across urban areas.
16. We propose a three-tiered targeting approach that targets the most directive policies to the largest and fastest growing urban centres, and minimising the resource constraints on small authorities. The tiers are distinguished by population size and growth rates, and local authorities are named in specific tiers.
17. The NPS-UD will be supported through the UGA by new tools for infrastructure funding and financing, investment in modern multi-modal transport systems and stronger partnerships between central and local government, hapū and iwi/Māori, and communities.

## **Background**

*Successful cities are important for New Zealanders, but they are underperforming*

18. Successful cities maximise labour markets, opportunities for education, and social and economic exchanges. They provide affordability, mobility and access, while functioning within environmental constraints and responding to changes in demand. Successful cities support a more diverse, knowledge intensive and productive economy and, in doing so, broaden our economic base. Most importantly, they contribute to the wellbeing of residents and raise living standards for all.
19. However, currently our cities are under pressure, underperforming and are not delivering the benefits we want. They are struggling to keep up with growth and to play their role as places of opportunity for both people and businesses. As part of this the housing crisis has been relentless and has impacted most on the poor, vulnerable and younger generations.
20. The planning and urban development systems have made it difficult to access the benefits of city life and our urban land markets are not functioning as they should,

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<sup>4</sup> Section 32 of the RMA requires that new proposals are examined for their appropriateness in achieving the purpose of the RMA.

resulting in an undersupply of development capacity. This means less people are able to afford homes in the places they want to live.

21. This is driven by an unresponsive planning system characterised by a reliance on restrictive land use regulation and the controlled release of land for urban purposes. Restrictive zoning, including height and density controls are restricting development and pushing up prices across New Zealand. This is alongside poor coordination in and between our land use and infrastructure planning.
22. These underlying problems can be seen in a range of symptoms, including housing unaffordability, increased hardship and homelessness, many housing developments stranded by poor transport connections, high land prices, reduced economic productivity, lowered wellbeing, and increased intergenerational inequality. These issues are likely to be exacerbated in the aftermath of COVID-19, but we as a Government are committed to resolving them.

*The NPS-UD as part of the UGA will play a central role in enabling successful cities*

23. National direction tools aim to clarify and direct how national interests are provided for in the devolved planning system. The existing NPS-UDC requires councils to:
  - enable sufficient, commercially feasible development capacity in their RMA plans to respond to demand for housing and business land over 30 years
  - set targets in their plans for sufficient housing development capacity
  - produce a Future Development Strategy (FDS) which identifies how that capacity will be provided in the medium and long term.
24. The NPS-UDC has made progress. However, changes are needed in the way urban planning interacts with urban markets to respond to growth. We need a planning system that supports and encourages growth where there is demand, and where the costs of growth are understood and shared in ways that support quality outcomes. Infrastructure investment should come together to shape efficient and liveable cities.
25. We cannot leave this situation to continue. That is why we established the Urban Growth Agenda (UGA), to address the underlying problems above so that we can have successful cities that maximise labour markets and opportunities.
26. The UGA aims to make room for growth both up and out by addressing fundamentals of land supply, development capacity and infrastructure provision by removing undue constraints and making the system more responsive. A central part of the UGA's success will be the ability to address constraints to urban development caused by an unresponsive planning system.
27. We consider an NPS is still the most effective means of supporting the system-wide, long term changes that we need. This is because it impacts on all RMA decision-makers and has the largest influence on local authority plans and decision-making frameworks.
28. The NPS-UD aims to change the culture and practice of land use regulation and its effects and will provide national direction under the RMA and replace the existing NPS-UDC

29. Many of the objectives and policies of the NPS-UD will apply to all urban areas, but the more rigorous provisions will be targeted to our largest and fastest growing urban centres. This ensures the more onerous requirements will apply only in the areas where they will provide the greatest benefits. This targeting approach is discussed in more detail in this paper.

### **Contributing to the Government's response to COVID-19**

30. The NPS-UD can also be seen as part of the wider government response to rebuilding momentum to manage the impacts of COVID-19. We are likely to see the following impacts on urban development.
- a. A drop in residential construction sector activity, like that seen in the Global Financial Crisis (GFC), fuelled by a decline in the availability of credit and lower consumer confidence and demand. Even if most projects underway may be completed, the pipeline of new projects in six months' time looks increasingly uncertain.
  - b. A drop in sector capacity due to closures of our construction and development firms and decline in sector employment, affecting the sector's ability to support the economic recovery.
  - c. A further reduction in the ability of local councils to fund existing planned work, or to bring forward "shovel ready" projects to help stimulate the economy<sup>[1]</sup>. Councils will also be pushed closer to their debt covenant cap.
  - d. an increase in market uncertainty for developers, causing projects may be delayed or put on hold, impacting future development and the sectors ability to respond.
  - e. A large proportion of our population negatively impacted by COVID-19 will be in our urban areas as three quarters of our population live in urban areas of at least 30,000.
31. If we do not get on top of these issues now, it will be difficult for both the market and government to address the challenges that COVID-19 brings for people living in our cities and across New Zealand. We have an opportunity to significantly improve the urban development sector outcomes over the coming months and years which will make a difference to building an economy that is more productive, sustainable, and inclusive.
32. COVID-19 has also reinforced the reliance of the urban development work programme on the progress in other portfolios and their response to COVID-19. The NPS UD will play an important role here in creating the conditions for the market to respond to growth, with a focus on freeing up restrictive planning rules. The NPS-UD will enable growth, both up and out, and help the development of more productive and sustainable cities by requiring councils to address overly restrictive rules and provide development capacity to meet the diverse demands of communities.
33. Cabinet recently approved changes to the RMA that will enable faster consenting of development and infrastructure projects in response to the impact

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[1] The Local Government COVID-19 Response Unit (LGNZ, SOLGM, Local Government Funding Agency, Treasury and Department of Internal Affairs (DIA))

of the COVID-19 pandemic on the economy. The NPS-UD will work alongside the fast-tracking RMA legislation. The NPS-UD will complement the larger-scale projects by enabling growth in addition to and in areas surrounding these projects.

34. By removing these barriers, we will provide for the construction of a range of housing typologies in a range of locations to meet the diverse housing needs and preferences of New Zealanders (including for apartments and town houses) in order to create sustainable and inclusive communities that are well-connected to employment and educational opportunities.
35. We also recognise that while the NPS-UD will affect change within the existing planning system, there is longer-term RMA reform underway. We consider that the role of the NPS-UD in enabling growth will remain relevant in a new system.

**Public feedback on the discussion document has indicated the need for some refinement of policies and some substantive changes to achieve policy intent**

36. The discussion document on the NPS-UD was consulted on between 21 August and 10 October 2019 and sought feedback on draft objectives and policies. In it we sought feedback on some sample wording and asked questions to inform the development of policies in the NPS-UD or future national direction. We asked how directive and specific intensification policies should be, how these should be incorporated into RMA plans, and what the timeframe for implementation by councils should be.
37. As part of the officials-led process for preparing an NPS under section 46A(3)(b) of the RMA, the Minister for the Environment established a Technical Advisory Panel. Officials undertook significant work with the Panel throughout the policy development process. This was very useful to analyse initial policy recommendations, road test the proposals against real world scenarios and to highlight any potential legal implications. The proposed NPS-UD was significantly enhanced through input of the Panel. The Panel has indicated their support for the policy outcomes sought through the NPS-UD, but noted that their support can only be expressed in general terms as the Terms of Reference did not enable a review of a final draft.
38. The Panel recommended officials undertook further targeted engagement with local authorities as the direction on some policies had shifted. Officials held meetings with relevant local authorities in January and February 2020 to discuss specific issues including but not limited to targeting of policies, car parking, HBAs, FPSs, intensification and responsiveness policies.
39. The Recommendations Report was prepared in accordance with section 46A(4)(c) of the RMA, is informed by an RMA section 32 analysis<sup>5</sup> (Appendix four) and a cost benefit analysis.
40. Some technical changes to the NPS-UD are required that do not make substantial changes to the policy approach. These are summarised in Appendix one.

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<sup>5</sup>Section 32 of the RMA requires that new proposals are examined for their appropriateness in achieving the purpose of the RMA.

41. We are proposing some changes to the NPS-UD policies that were publicly consulted on [CAB-19-MIN-0380 refers]. The proposed changes primarily relate to making room for growth (i.e. intensification policies) and will better enable well-functioning urban environments and competitive urban land markets – that is not just the availability of more land, but the intensification of existing development in urban areas and greenfield development. The more substantive changes are discussed in the following section.

**We propose proceeding with the NPS-UD policies consulted on in 2019, with changes based on the feedback received in consultation and further analysis**

*Summary and structure of NPS-UD*

42. The NPS-UD contains objectives and policies in four key areas. Below is a summary of each of the four areas.

a. *Future development strategy*

- The future development strategy (FDS) policies will require certain councils to carry out long-term planning to demonstrate how they will accommodate growth and ensure a well-functioning urban environment for all people, communities and future generations.
- These policies build on and strengthen the existing NPS-UDC requirements for local authorities to prepare or update an FDS every three years. They would apply only to local authorities in tiers 1 and 2.
- The FDS policies includes requirements for engagement with other relevant local authorities, central government agencies, hapū and iwi, and a public consultation process. Local authorities are strongly encouraged to use their FDS to inform the development of Long Term Plans and Infrastructure Strategies under the Local Government Act 2002, and Regional Land Transport Plans under the Land Transport Management Act 2003.

b. *Making room for growth*

- These objectives and policies set out how RMA plans need to enable growth in a way that contributes to a well-functioning urban environment. This includes enabling growth both upwards through greater intensification and outwards through greenfield development. It also includes requirements aimed at ensuring that rules in plans are not unnecessarily constraining growth.
- This part also incorporates amended NPS-UDC policies requiring plans to provide development capacity for housing and business space. Local authorities must enable enough development opportunities to respond to projected growth. Local authorities in tier 1 must also incorporate bottom lines, setting out the minimum capacity for housing required over the next 30 years, into their regional and district plans.

c. *Evidence for good decision-making*

- Underpinning the other parts of the NPS-UD are requirements to develop, maintain an evidence base to inform planning decisions. This part incorporates many of the existing requirements of the NPS-UDC, with amendments to build on and improve these policies.

- In addition to these more general requirements, tier 1 and 2 local authorities will have to prepare a Housing and Business Development Capacity Assessment (HBA) at least every three years and monitor additional 'price efficiency' indicators.
  - HBAs are an existing NPS-UDC requirement. Under the NPS-UD, the HBA policies will be amended and improved so they provide more useful and fit-for-purpose information to local authorities.
- d. *Processes for engaging on planning*
- This part sets out requirements for who local authorities should be working with as part of their urban planning process and what that engagement should look like. It states existing obligations under the RMA – to take into account the principles of the Treaty of Waitangi (te Tiriti o Waitangi) – and provides direction on what local authorities must do in this regard when planning for urban environments. The NPS-UD does not replace requirements under the RMA for engaging with tangata whenua and iwi authorities. The engagement requirements also ensure coordinated planning between local authorities and infrastructure providers. This section applies to all urban environments.

*Providing for intensification policies*

43. The discussion document consulted on options (both a prescriptive and descriptive approach) for directing councils proposed to be major urban centres to enable development density in particular locations. Further analysis showed it was difficult to prescribe intensification metrics at a national level, without unintended consequences.
44. For example, in some areas, characteristics such as slope may make a prescribed density incompatible. Therefore, we propose a mixture of descriptive policies, which would provide guidelines for how local authorities set density in certain areas, and prescriptive policies that would set specific density provisions for areas where we have the greatest evidence of benefit.
45. The prescriptive policy would direct councils to enable the higher levels of development around rapid public transport stops, and in and around city centre and metropolitan centre zones. These locations currently provide the best proxy for locations of highest accessibility and demand, and there is strong economic evidence to demonstrate that reducing constraints on development in these locations will have the biggest impact.
46. Over time these changes will particularly assist renting households. PwC estimate that renters will receive around two to six times the net benefits, due to an increase in homes, more choice and discretionary income from lower prices.
47. We propose that the above approach is accompanied by an 'exceptions' policy, recognising that in some locations, intensification will not be suitable to the level envisaged by the policy. Clear direction on the nature of exception would be provided through this policy, and any exception must be supported by clear evidence of the need for exceptions at an individual property level.

### *Enabling a more responsive planning system*

48. The discussion document included an example policy that would direct local authorities within councils to be more responsive to change requests for urban development that were a) out of sequence, or b) unidentified in plans. The example policy was directive, using the term 'must provide for urban development'. Following consultation and further analysis, it appeared the policy would possibly introduce a test that would decrease the ability of local authorities to respond to greenfield plan change requests compared to the status quo.
49. We propose a policy that requires local authorities to be responsive by having particular regard to proposals that would add significant development capacity, contribute to well-functioning urban environments and are well connected along transport corridors. This policy would be complemented by a requirement for councils to consult with developers to understand the nature, scope and timing of development opportunities they are pursuing through the FDS.

### *Removing car parking minimum requirements in all tiers*

50. Minimum parking requirements currently dictate the number of off-street car parks a new development must provide. We consulted on whether to remove car parking minimum requirements in certain zones. This would provide developers the flexibility to determine the number of carparks in their developments.
51. The use of minimum car parking requirements, particularly in major urban centres, has prevented land being used for more productive purposes and added significant cost to housing and commercial developments. Essentially, the rules impose a tax on floor area to accommodate cars, instead of allowing developers flexibility to determine the number of car parks they need. These costs then fall on households and businesses.
52. Removing the ability to set minimum parking requirements will help ensure car parks are not forced in areas where more space for housing could otherwise be achieved. This in turn will help reduce unnecessary development costs and make it easier to build housing, particularly in denser urban areas well connected by public transport where people often do not need to own cars to access their social and economic needs.
53. The policy will have significant benefits. Across the cities tested<sup>6</sup> PwC estimates this would result in indicative benefits of \$670m, compared to indicative costs of approximately \$78m, a cost benefit ratio of 8.6.
54. This policy will not necessarily result in significant declines in parking availability. Developers will still cater for people who want garages or car ports, but will have more flexibility to provide shared car parking spaces for multi-unit developments if they choose, or none at all if the demand does not exist. Many businesses will still provide car parking for their customers but will not be required to provide more car parks than people actually use at any given time.
55. We therefore propose that all urban areas remove minimum parking requirements in favour of market led solutions. It will allow developers to decide to how many carparks to provide based on their customers' preferences and reallocate land to

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<sup>6</sup> Auckland, Hamilton, Wellington, Christchurch and Queenstown.

other commercial or housing uses. While the benefits of more flexible land use will be immediate for developers, changes in the supply of parking will occur slowly over-time as development and redevelopment occur.

56. This policy would apply to all three tiers. While we did not consult on removing car parking restrictions for all tiers, evidence shows that the benefits of the policy would be greater than the costs in all urban areas. No city is too small to consider removing distortionary parking rules, and the costs of removing minimum requirements will decline in smaller cities with less constraints on parking availability. Extending the policy to all urban environments embeds good planning practice more broadly and prepares smaller urban environments to respond to growth pressures in the future.
57. We also propose the inclusion of new direction, encouraging all urban areas to manage parking spill-over through comprehensive parking management plans.
58. Accessibility carparks must still be provided for, and this policy does not preclude private provision of parking where market demand exists.

#### *Well-functioning urban environments*

59. The discussion document proposed giving direction on the nature of quality urban environments both in existing and future urban environments. However, the proposed policy led to varying interpretations from submitters on the scale to which it applied. This undermined the policy intent – to provide national direction on the critical features and functionality of an urban environment while still enabling local authorities to make choices about the particular development that occurs in their local urban environments.
60. Therefore, we propose replacing the term ‘quality urban environment’ with ‘well-functioning urban environment’ to better align with the intent of the policy. The revised policy identifies nationally applicable factors characteristic of a well-functioning urban environment:
  - a. having or enabling a variety of homes that meet the needs, in terms of type, price and location, of different households and enable Maori to express their cultural traditions and norms
  - b. having or enabling a variety of sites that are suitable for different business sectors in terms of location and site size
  - c. having good accessibility between housing, jobs, opportunities for social interaction, services, and public open spaces, including by way of public or active transport
  - d. supporting the competitive operation of land and development markets
  - e. supporting reductions in greenhouse gas emissions
  - f. being resilient to the likely current and future effects of climate change.

#### *Addressing housing affordability*

61. Housing affordability was not clearly referenced through an objective in the discussion document. Some submitters and agencies raised this omission. Housing affordability is a key priority for this Government and it is important that this is included as an objective of the NPD-UD.

62. As such, we propose an objective that clearly states the intent of the NPS-UD is to support housing affordability as delivered through planning decisions that support competitive land markets.

*Addressing climate change*

63. Climate outcomes are a priority for this Government. While the cumulative impact of proposed policies in the NPS-UD was intended to support reductions in greenhouse gas emissions, several submissions noted that the proposed direction did not explicitly reference climate change.
64. We propose including an objective in the NPS-UD that explicitly references climate considerations, accompanied by a policy requiring decision-makers to have particular regard to the current and future effects of climate change when making decisions relating to urban environments. This provides a clear signal that we expect planning decisions to contribute to climate change outcomes.

*Taking into account the values and aspirations of Māori*

65. We intend to strengthen the ability of Māori to have a role in shaping the future state of the urban environment through the NPS-UD and consider that the discussion document presented a narrow scope of provisions relating to Māori engagement. Therefore, we propose removing reference to whenua Māori and have provided direction to councils to understand and take into account *Māori values and aspirations for urban development, in particular, those of tangata whenua*. This extends the scope of the policy because the identification of values and aspirations for Māori would not be limited to whenua Māori.
66. Submissions we received from hapū and iwi/Māori, including Ngāi Tahu and Waikato Tainui, sought greater recognition of the Treaty of Waitangi (te Tiriti o Waitangi) and of Treaty settlements in the NPS-UD. In response to these submissions, we have included a specific reference to highlight councils' existing obligations to the Treaty of Waitangi and to provide direction to councils on how to take into account the Treaty in planning for urban environments.
67. We also propose to extend the scope of the matters to be taken into account by local authorities to enable hapū and iwi/Māori to identify a desired future state for the urban environment instead of just providing for a reaction to current state.

*Housing and Business Assessments will apply to tiers 1 and 2 (rather than tier 1 only)*

68. The NPS-UDC requires both high and medium growth urban area councils to prepare detailed housing and business development capacity assessments (HBAs). The discussion document proposed removing these requirements from medium growth urban areas and only applying them to what was referred to in the discussion document as major urban centres. This was due to preliminary analysis that the costs of such policy requirements for smaller, lower growth areas might not be justified by the benefits.
69. However, further analysis and subsequent feedback through submissions, identified that HBAs have value for smaller, lower growth areas. On the basis of this we now propose that both tier 1 and 2 councils be required to publish three yearly HBAs, but allow tier 2 HBAs to present simpler, fit-for-purpose information about the commercial feasibility of housing development capacity, and the demand for business land.

70. The discussion document proposed that the NPS-UD require councils to provide sufficient development capacity, that is commercially feasible and reasonably expected to be realised (referred to as 'likely to be taken up' in the discussion document). We propose replacing this wording with 'reasonably expected to be realised' to clarify the policy intent. This would require local authorities to:
- meet projected demand for housing and business land
  - for tier 1 and 2 councils, also provide an additional margin of 20 per cent in the short and medium terms and 15 per cent in the long term.
71. The margin requirements under the NPS-UD for HBAs are likely to add significantly more development capacity than under the NPS-UDC.

*Application of NPS-UD policies*

72. The discussion document proposed focusing the most directive policies on the fastest growing areas, with the largest urban pressures or the largest urban areas effectively replacing the NPS-UDC's three-tier system with a two-tier system.
73. Officials have reassessed the targeting of policies in the NPS-UD based on Statistics NZ population size and growth rates made available in December 2019. Further, feedback from medium-growth councils was that the existing policies were useful for their planning activity.
74. We consider that the NPS-UD should use a three-tiered approach more in line with that currently in place under the NPS-UDC. The tiers and policies that would be applicable are outlined below.

<b>Tier 1</b>	<b>Policies that apply</b>
<ul style="list-style-type: none"> <li>• Auckland Council</li> <li>• Christchurch City Council, Selwyn District Council, Waimakariri District Council, Environment Canterbury Regional Council</li> <li>• Wellington City Council, Lower Hutt City Council, Kapiti Coast District Council, Porirua City Council, Upper Hutt City Council, Greater Wellington Regional Council</li> <li>• Hamilton City Council, Waikato District Council, Waipa District Council, Waikato Regional Council</li> <li>• Tauranga City, Western Bay of Plenty District Council</li> </ul>	<ul style="list-style-type: none"> <li>• HBAs</li> <li>• FDS</li> <li>• Directive intensification policies</li> <li>• Detailed assessment of 'take-up' in intensified zones</li> <li>• All policies listed in tier 3</li> </ul>
<b>Tier 2</b>	<b>Policies that apply</b>
<ul style="list-style-type: none"> <li>• Hastings District, Napier City, Hawkes Bay Regional Council</li> <li>• Nelson City, Tasman District, Whangarei District, Northland Regional Council</li> <li>• Palmerston North City, Horizons Council, New Plymouth District, Taranaki Regional Council</li> <li>• Rotorua District Council, Bay of Plenty Regional Council</li> <li>• Dunedin City, Otago Regional Council</li> </ul>	<ul style="list-style-type: none"> <li>• HBAs (simpler provisions to match capability)</li> <li>• FDS</li> <li>• All policies listed in tier 3.</li> </ul>

<ul style="list-style-type: none"> <li>Queenstown-Lakes District Council, Otago Regional Council</li> </ul>	
<b>Tier 3</b>	<b>Policies that apply</b>
All urban environments: population greater than 10,000	<ul style="list-style-type: none"> <li>Removing minimum car parking</li> <li>Provide sufficient development capacity to meet demand</li> <li>Well-functioning urban environments</li> <li>Responsive planning policies</li> <li>Enable greater density of urban form in locations with good public transport accessibility</li> <li>Amenity provisions</li> <li>Taking into account the Treaty of Waitangi (te Tiriti o Waitangi) (note that this policy does not limit the application of section 8 of the RMA to population areas greater than 10,000)</li> <li>Monitoring housing market indicators</li> </ul>

## Implementation of the NPS-UD

*The NPS-UD will have immediate influence, but more significant changes will take time*

75. All objectives and policies in the NPS-UD will apply immediately from when the NPS-UD comes into force.

*Timeframe for implementing intensification policies*

76. Some submissions expressed concern about implementing the intensification policies within 18 months, so we now propose a staggered implementation to intensification. This would require tier 1 and 2 councils to notify plan changes as soon as practicable and no later than 2 years after the NPS-UD is gazetted, and tier 3 councils to notify plan changes to give effect to the intensification policies as soon as practicable.

77. There are several reasons this extension for tier 1 and 2 councils is appropriate. Firstly, local authorities will also be expected to give effect to other national direction on freshwater, indigenous biodiversity and highly productive land, so the capacity of councils, resource management professionals and the courts will be stretched. Some elements of the intensification policy will require significant groundwork to implement. Secondly, councils may need to socialise this policy with their communities. This will also likely coincide with councils working through the impact of COVID-19 on their work programmes and communities.

*Timeframe for implementing car parking policy*

78. We propose tier 1 councils have 18 months to remove minimum car parking rules, as proposed in the discussion document. The 18-month timeframe is to ensure councils and communities have sufficient time to develop car parking management plans to manage effects of car parking in other ways. The New Zealand Transport Agency (Waka Kotahi) will be providing guidance on this.

### *Timeframe for preparing or reviewing a Future Development Strategy*

79. We propose the deadline for preparing or reviewing an FDS be linked to informing the 2024 long-term plans. This is because gazettal of the NPS-UD in July 2020 does not allow sufficient time for local authorities to develop the FDS to inform 2021 long-term plans. Additionally, this will focus implementation in the short term on giving effect to the intensification policies and car parking policies that are likely to substantially increase development capacity.
80. HBAs will need to be updated every three years. Tier 1 and 2 councils will be required to complete the housing assessment aspect of the HBA by July 2021 and the full HBA (including business assessment) in time to inform council's 2024 long-term plans.
81. This approach recognises the short timeframe to update HBAs following gazettal of the NPS-UD and the pressing issues with housing development capacity. It will ensure up-to-date information is available to give effect to the development capacity requirements of the NPS-UD. This approach also allows councils more time to develop internal capability to carry out robust business land assessments (under the NPS-UDC, all councils engaged external consultants to carry out this aspect of the first round of HBAs, with varying results).

### *Implementation programme*

82. The benefits of national direction cannot be realised without a change in planning culture and practice to support it. The NPS-UD must be supported by a comprehensive implementation programme that aims to ensure local authorities implement the NPS as intended. HUD and MfE are jointly responsible for the implementation of the NPS-UD.
83. Lessons learnt from implementing the 2016 NPS-UDC reinforce the importance of supporting councils to implement the NPS-UD policies not only through traditional methods such as guidance, but also through enabling cross council collaboration and using existing central government relationships, partnerships and skills.
84. The Office for Disability Issues has noted the importance of the NPS-UD in relation to disabled people and that urban environments are accessible, i.e. places where disabled people are able to fully participate, interact and move about with ease and dignity. We will be working on guidance and implementation to ensure these issues are considered by local authorities when implementing the NPS-UD. MfE and HUD will work with the Office for Disability Issues to determine the appropriate forum to undertake the development of this guidance. MfE and HUD will also work with the Office for Seniors alongside this.
85. The experience with implementation of the NPS-UDC also highlighted that the way in which central government monitors and evaluates council implementation, combined with the way any non-compliance is dealt with, strongly influences the extent to which the key objectives of the policy are achieved. Therefore, the implementation phase of the NPS-UD will be focused on developing and implementing clear and transparent monitoring and enforcement strategies.
86. Officials advise that, overall, Treaty settlement arrangements are not intended to be impacted directly by any of the proposed changes. However, they advise that

moving forward into the implementation phase, MfE must engage with hapū and iwi to assess if impacts may arise, and if so, manage them.

### **Financial implications**

87. Funding has been provided in the 2019 budget for implementation support, including delivery of some guidance material and engagement.

### **Legislative implications**

88. There are no legislative implications arising from this paper.

### **Other national direction instruments are being amended or developed in a similar timeframe**

89. Four other areas of national direction are being developed (freshwater management, highly productive land, indigenous biodiversity), which could require local authorities to achieve multiple objectives. In particular, careful planning will be required to achieve objectives to 'protect' certain aspects of the environment while also 'enabling' urban development. We consider that the cumulative impact of implementing these will be particularly significant on councils and the Ministry for the Environment has been coordinating these processes.
90. Officials have worked to reduce tensions between the proposed NPS-UD and other national direction, however interactions and overlaps still exist. The differing timeframes for development of these national direction instruments adds complexity to managing their interactions and implementation; one may be finalised before changes in another new reveal interactions.

#### *Interactions with the national direction on freshwater management*

91. The Government has consulted on updated national direction for freshwater management, including proposed full replacement of the NPS-FM and a new NES-FM to broaden the focus to all aspect of freshwater ecosystem health, in urban and rural environments.
92. While only a small fraction of New Zealand's freshwater bodies are in urban areas, these are some of the most degraded. These is a risk that protection of streams and wetlands and the need to avoid sedimentation could add significant cost to development.
93. Officials working on both instruments have worked to reduce the complexity and clarify the intended outcomes of the processes established by the freshwater package. Officials working on the NPS-UD also understand that the freshwater package will be amended to reflect the broader range of values associated with urban streams than ecosystem health.

#### *Interactions with the proposed National Policy Statement on Highly Productive Land (NPS-HPL)*

94. The NPS-HPL is aimed to improve the way highly productive land is managed under the RMA to recognise the full range of values and benefits associated with the use of highly productive land for primary production; maintain the availability

of highly productive land for primary production for future generations and to protect highly productive land from inappropriate subdivision, use and development.

95. It does not preclude the use of land for urban development, instead asking councils to actively consider trade-offs when making land-use decisions.

96.

s 9(2)(f)(iv)

### *Interactions with a proposal for a National Policy Statement on Indigenous Biodiversity (NPS-IB)*

97. The intent of the proposal for an NPS-IB is to identify, protect, manage and restore indigenous biodiversity, including in urban areas. The NPS-IB is earlier in the development cycle and so many interactions may not be clear. The FDS policies of the NPS-UD are expected to be a key tool in managing these interactions, and open spaces with biodiversity, as envisaged by the NPS-IB, would very much be consistent with the well-functioning urban environments desired by the NPS-UD. While the NPS-IB will preclude development in some areas, it provides an opportunity to improve the connections between communities and the natural environment.

### **Relation to government priorities**

98. This proposal relates to the Government's priority theme of improving the wellbeing of New Zealanders and their families. The NPS-UD will contribute to healthier, safer and more connected communities, and to ensuring everyone has a warm, dry home.

99. The proposed policies also support the Government's Economic Plan by contributing to the transformation of our housing market.

### **Impact Analysis**

#### *Regulatory impact analysis*

100. The Regulatory Impact Analysis requirements apply to the proposal in this paper and a Regulatory Impact Assessment (RIA) has been prepared (Appendix three).

101. A review panel with representatives from the Treasury's Regulatory Quality Team, the Ministry for the Environment and the Ministry for Housing and Urban Development has reviewed the Regulatory Impact Assessment (RIA) "National Policy Statement on Urban Development" (NPS-UD) produced by the Ministry of Housing and Urban Development and dated 22 May 2020. The review team considers that the RIA meets the Quality Assurance criteria.

102. This is a complex RIA with links to the wider Urban Growth Agenda (UGA). The problem definition and options analysis in the RIA are underpinned by a solid evidence base including a study by Beca on the impacts of specific planning rules

on constraining urban growth, a cost benefit analysis undertaken by PricewaterhouseCoopers and a Resource Management Act Section 32 report by the Ministry for Environment.

103. The RIA indicates that the benefits and costs of the NPS-UD will be unevenly distributed throughout the country and different urban environments, however where the constraints are tightest and the costs are potentially most significant, the benefits are expected to be highest.
104. Evaluation, monitoring and review will be important for successful implementation of the NPS-UD because it will help to manage local and regional differences and the risk of any unintended consequences. As indicated in the RIA, a key part of the implementation strategy will be allowing for some flexibility in the NPS-UD's provisions where evidence of its need can be provided and leveraging other UGA mechanisms (such as the growth partnerships and infrastructure funding and financing tools) to support councils to implement the NPS-UD."

#### *Climate Impact Panel Assessment*

105. The Ministry for the Environment has been consulted and confirms that the CIPA requirements do not apply to this proposal. The direct emissions impacts are unable to be accurately determined in quantitative terms. However, the Ministry notes that overall emissions from transport can be expected to further decrease relative to current projections, due to increased density of urban development, particularly where this is enabled in or near centres or employment opportunities, and in areas well-served by public transport. The mandatory removal of car parking minima from plans will remove a subsidy on car parking, and is also expected to contribute to this effect.

#### *Population implications*

106. Improvements to urban environments will have greater positive impacts for disabled people if done in a way that promotes accessibility and inclusion and excludes and/or removes accessibility barriers. Well-functioning environments, as defined in the NPS-UD, will also support the Age-friendly work programme. Of particular relevance is having a variety of housing typologies that meet the needs of different households (including older people) and good accessibility between housing, jobs and community services and amenities.
107. It is important that disabled people are included in any consultation as this work progresses. Given the significant proportion of age-related mobility issues and other disabilities, it will also be important for older people to be included in consultation as this work progresses.
108. There are no gender implications associated with this proposal.

#### **Human rights**

109. There are no human rights implications associated with this proposal.

## **Consultation**

110. This paper has been prepared by the Ministry for the Environment and the Ministry of Housing and Urban Development.
111. The following agencies have been consulted: Treasury, Ministry of Transport, Department of Internal Affairs, Heritage New Zealand Pouhere Taonga, Office for Seniors, Te Arawhiti, Te Puni Kōkiri, Housing New Zealand Corporation, Ministry of Social Development, Office for Disability Issues, Kainga Ora, Department of Conservation, Ministry of Education, Ministry of Health, Land Information New Zealand and the New Zealand Transport Agency.

## **Communications**

112. The NPS-UD will be notified in the Gazette.
113. The NPS-UD and the report provided to us under section 51 of the RMA will be publicly notified and made available on the Ministry for the Environment's website. A copy will also be sent to every local authority. A summary of the recommendations in the report and a summary of our decisions (including any reasons for not adopting any recommendations) will be made available to submitters (as required by section 52(3)(c)) of the RMA on the Ministry for the Environment website.

## **Proactive release**

114. We intend to proactively release this paper in full following gazettal in July 2020.

## **Compliance**

115. The proposed regulations comply with:
- the principles of the Treaty of Waitangi (te Tiriti o Waitangi)
  - rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993
  - principles and guidelines set out in the Privacy Act 1993
  - relevant international standards and obligation
  - Guidelines on Process and Content of Legislation.
116. The statutory prerequisites that apply to the preparation and finalisation of a national policy statement have been met.
117. Cabinet agreed to publicly consult on a draft National Policy Statement on Urban Development from 21 August to 10 October 2019 [CAB-19-MIN-0380 refers].
118. Section 46A of the RMA requires the Minister for the Environment to choose between using a board of inquiry or an alternative process to inquire into and report on the proposed amendments. The Minister for the Environment chose to use an alternative process under section 46A(3)(b) that meets the statutory requirements to give the public adequate time and opportunity to make a submission; and consider a report and recommendations on the submissions and the subject matter of the proposed amendments.

119. The Minister also appointed a Technical Advisory Panel to provide an independent review. The Panel has indicated their support for the policy outcomes sought through the NPS-UD but notes this support can only be expressed in general terms as the Terms of Reference did not enable a review of a final draft.
120. We have recommended changes to the proposed NPS-UD as a result of submissions to improve clarity, and better achieve the policy intent. We have received, and had particular regard to:
- Recommendations Report prepared under section 46A(4)(c) of the RMA and informed by a section 32 analysis and Cost Benefit Analysis
  - An RMA section 32 and section 32AA report when evaluating proposed changes (Appendix four). This report concluded that there are considerable efficiencies to be gained from adopting the preferred policies, and they meet the tests of section 32 of the RMA.
121. We recommend that the Ministers for the Environment and Urban Development be delegated the ability to make any minor and technical amendments to the drafting of the NPS-UD as required prior to gazettal.
122. We note that Crown Law assisted in the preparation of the draft NPS, but a detailed vires review is required before the NPS can be submitted to the Ministry for Environment Chief Legal Advisor for certification. The review and the certification process are required under the CabGuide and are the final steps in the process before the NPS can be submitted to the Executive Council for approval. Because we are seeking approval to make further minor changes and drafting fixes, these steps have not been carried out yet. However, we intend to have this review and certification completed prior to the NPS being submitted to Cabinet on 8 June.
123. Some changes sought by submitters will be addressed through the proposed implementation programme. A summary of recommendations and our response to them will be provided to submitters as required by section 52 of the RMA as well as supporting documents.

### **Regulations Review Committee**

124. A national policy statement prepared through a process under section 46A(1) of the RMA is a disallowable instrument and must be presented to the House of Representatives.
125. We consider there are no grounds for the Regulations Review Committee to draw the NPS-UD to the attention of the House under Standing Order 319.

### **Timing and 28 day rule**

126. The NPS-UD will come into force 28 days after its notification in the Gazette.

### **Recommendations**

The Minister for the Environment and Minister for Urban Development recommend that the Committee:

1. **note** that in July 2019 Cabinet agreed to publicly consult on a discussion document containing draft policy wording for a National Policy Statement on Urban Development [CAB-19-MIN-0380 refers]
2. **note** that we have considered the summary of submissions and recommendations provided to us under section 51 of the RMA and the section 32AA analysis
3. **agree** that the Minister for the Environment and Minister for Urban Development can make minor and technical amendments to the National Policy Statement on Urban Development to ensure it gives effect to its policy intent
4. **agree** to policy changes to the draft National Policy Statement on Urban Development, including:

*Providing for intensification policies*

- 4.1. Adopt a 'scaled' approach to most directive policies, with greater specificity in prescription provided to the areas with clear evidence of benefit – city and metro centres, and rapid transport stops
- 4.2. Allow exceptions to enabling intensification where local constraints are incompatible – but require clear and demonstrable evidential basis for this exception

*Enabling a more responsive planning system*

- 4.3. Include policy direction for local authorities to have particular regard to out-of-sequence and unanticipated development, if they significantly add to development capacity, support well-functioning urban environments and are well-connected along transport corridors
- 4.4. Integrate responsiveness directions into the NPS-UD Future Development Strategy and engagement requirements, by requiring engagement with the development sector on development opportunities

*Removing car parking minimum requirements in all tiers*

- 4.5. Require local authorities in all tiers to remove minimum car park requirements, in all zones
- 4.6. Encourage all local authorities to manage the supply and demand of car parking through comprehensive parking management plans.

*Describing well-functioning urban environments*

- 4.7. Replace references to 'quality urban environments' with 'well-functioning' urban environments
- 4.8. Include a policy outlining a non-exclusive list of functions that a well-functioning urban environment is expected to deliver

*Addressing housing affordability*

- 4.9. Include an objective to recognise the role of planning decisions in improving housing affordability through supporting competitive land and development markets

*Addressing climate change*

- 4.10. Include an objective that the urban environments support reductions in greenhouse gas emissions
- 4.11. Include policy that decision-makers must have particular regard to the current and future effects of climate change when making decisions relating to urban environments

*The values and aspirations of Maori in urban planning*

- 4.12. Provide direction to local authorities about taking into account the principles of the Treaty of Waitangi (te Tiriti o Waitangi) in urban planning
- 4.13. Increase the scope of the matters to be taken into account by local authorities to enable Māori to identify a desired future state for the urban environment instead of just providing for a reaction to current state
- 4.14. Require local authorities, in carrying out the HBA, to assess how the housing market is providing for Māori housing demand

*Housing and Business Assessments will apply to tiers 1 and 2 (rather than tier 1 only)*

- 4.15. Maintain competitiveness margins of 20 per cent in the short and medium term and 15 per cent in the long term
- 4.16. Extend the requirement to prepare a three-yearly HBA in time to inform long term plans under the Local Government Act to tier 2 councils but with simpler requirements for evidence
- 4.17. Clarify meaning of 'take-up', replacing the term with reasonably expected to be realised, and support with guidance and examples

*Application of NPS-UD policies*

- 4.18. Retain the three-tiered approach with specific policies being targeted to tier 1 and 2 and general policies applying to all urban environments but change the expectations about what policies each tier must follow.
- 4.19. Confirm that tier 1 will include local authorities in: Auckland, Hamilton, Wellington, Tauranga, Christchurch
- 4.20. Confirm that tier 2 will include local authorities in: Napier-Hastings, Nelson-Tasman, Whangarei, Palmerston North, New Plymouth, Rotorua, Dunedin, Queenstown

5. **agree** to the following timeframes for local authorities to implement NPS-UD:

- 5.1 Tier 1 and 2 councils have two years from the NPS-UD gazettal to notify plan changes to implement all intensification policies
- 5.2 Tier 1 councils have 18 months from the NPS-UD gazettal to notify plan changes to implement car parking policy
- 5.3 Tier 3 councils required to notify plan changes to implement the relevant intensification policies as soon as practicable HBAs must be updated every three years
- 5.4 Tier 1 and 2 councils required to complete the housing assessment aspect of the Housing and Business assessments by July 2021 and the full Housing

and Business assessment (including business assessment) in time to inform council's 2024 long-term plans

- 5.5 Future Development Strategies (FDS) should be prepared or reviewed in time to inform council's 2024 long-term plans
- 5.6 Local authorities should review FDS every three years, informed principally by the latest HBA and ongoing with development sector engagement about development opportunities. Local authorities must follow a Special Consultative Process in relation to aspects that are deemed necessary to update
6. **note** the policies in the NPS-UD will not directly impact Treaty settlement arrangements
7. **note** that officials will provide guidance to ensure that Treaty Settlement Act obligations are not adversely impacted
8. **agree** to the Minister for the Environment and Minister for Urban Development:
  - 7.1 recommending the National Policy Statement on Urban Development to the Governor-General in Council for approval
  - 7.2 notifying the National Policy Statement on Urban Development in the *New Zealand Gazette*
9. **note** that when the NPS-UD takes legal effect it will replace the NPS-UDC
10. **note** that the National Policy Statement on Urban Development will come into effect 28 days after its notification in the *New Zealand Gazette*
11. **invite** the Minister for the Environment and Minister for Urban Development to further discuss the NPS-UD implementation programme and associated costs with Housing Ministers

**Hon David Parker**  
**Minister for the Environment**

**Hon Phil Twyford**  
**Minister for Urban Development**

## Appendix 1

### Technical changes to the NPS-UD following consultation and further analysis

Policy	Proposal as consulted on in discussion document	Recommendations
Amenity values in urban environments	Recognising that amenity values change over time, and vary among individuals and communities	<ul style="list-style-type: none"> <li>• Broaden the scope of the amenity objective to focus on allowing for urban environments as a whole to change, but include explicit reference to amenity values.</li> <li>• Strengthen the amenity policy to require decision-makers to have regard to anticipated urban form outcomes, that appreciation of amenity values can differ across individuals and communities, and that change to existing amenity values is not necessarily negative.</li> </ul>
Ensuring that plan content enables expected levels of development	Council rules must individually and cumulatively support objectives for growth	<ul style="list-style-type: none"> <li>• Replace zone description requirement with directions to plan-makers to describe in the zone objectives the:               <ul style="list-style-type: none"> <li>- intent of the zone outcomes, including the anticipated built form (future anticipated environment)</li> <li>- spatial distribution of the zone in terms of the location principles and spread (area) to achieve the development capacity sought.</li> </ul> </li> <li>• Retain zone evaluation policies and provide guidance as appropriate to zone evaluations</li> <li>• Include list of zone type for which monitoring and evaluation must be undertaken</li> <li>• Require consideration of impact of plan-making on development capacity is undertaken alongside the requirements of the development capacity provisions of NPS-UD</li> </ul>
Future Development Strategy (FDS)	Broadening and refining the requirements for an FDS, and strengthening its role in the planning system	<ul style="list-style-type: none"> <li>• FDS must be produced every 6 years</li> <li>• FDS must be reviewed, and if necessary updated, every 3 years.</li> </ul>

This paper also included a draft of the National Policy Statement on Urban Development, the Regulatory Impact Assessment and evaluation reports prepared under s32 and s32AA of the Resource Management Act 1991. The final versions of these documents are available at [www.mfe.govt.nz](http://www.mfe.govt.nz)