



9(2)(a)

Dear 9(2)(a)

Thank you for your email of 30 June 2021 requesting the following under the Official Information Act 1982 (the Act):

- 1) All briefing documents from MoE to former Minister Twyford on the NPS-UD.
- 2) All briefing documents from MoE to former Minister Park on the NPS-UD.

On 9 July 2021 you confirmed that your request was related to briefing documents provided by the Ministry for the Environment (the Ministry) to Ministers Twyford (in his previous role as Minister of Housing) and Parker (as Minister for the Environment) on the National Policy Statement on Urban Development 2020 (NPS-UD) up until the gazettal of the NPS-UD on 23 July 2020.

The Ministry has identified 16 documents in scope of your request, as listed in the attached document schedule.

Some information has been withheld under the following sections of the Act:

- 9(2)(a) to protect the privacy of natural persons, including that of deceased natural persons.
- 9(2)(f)(iv) to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials.

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.

Nine documents and the appendices/annexes of two documents are publicly available on the Ministry's website. The release of these documents is refused under section 18(d) of the Act, that the information requested is or will soon be publicly available. The remaining seven briefings are attached to this response.

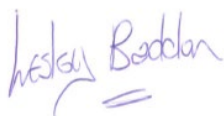
The NPS-UD was developed to ensure New Zealand's towns and cities are well-functioning urban environments that meet the changing needs of our diverse communities. It removes overly restrictive barriers to development to allow growth 'up' and 'out' in locations that have good access to existing services, public transport networks and infrastructure.

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](http://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 Ministerial Services team: [ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz).

Yours sincerely



Lesley Baddon  
Director, Urban and Infrastructure Policy

Released under the provision of  
the Official Information Act 1982

### Document schedule

Doc no.	Document date	Content	Decision	OIA sections applied
1.	14/06/2018	2018-B-04566 UGA Urban Planning Pillar approach and next steps for national direction	Released in full	
2.	26/10/2018	18-B-05003 Recommended package of national direction on quality intensification	Refused	18(d) <a href="https://environment.govt.nz/assets/Publications/Cabinet-papers-briefings-and-minutes/briefing-recommended-package-of-national-direction-on-quality-intensification.pdf">https://environment.govt.nz/assets/Publications/Cabinet-papers-briefings-and-minutes/briefing-recommended-package-of-national-direction-on-quality-intensification.pdf</a>
3.	6/12/2018	2018-B-05074 National direction of Quality Intensification detailed policy proposals	Released in full	
4.	18/04/2019	2019-B-05354 Proposed National Policy Statement on Urban Development Draft Cabinet paper and discussion document	Refused	18(d) <a href="https://environment.govt.nz/assets/Publications/Cabinet-papers-briefings-and-minutes/briefing-proposed-national-policy-statement-on-urban-development-draft-cabinet-paper-and-discussion-document.pdf">https://environment.govt.nz/assets/Publications/Cabinet-papers-briefings-and-minutes/briefing-proposed-national-policy-statement-on-urban-development-draft-cabinet-paper-and-discussion-document.pdf</a>
5.	14/06/2019	2019-B-05622 Material for Ministerial Consultation on the proposed National Policy Statement on Urban Development	Refused	18(d) <a href="https://environment.govt.nz/publications/material-for-ministerial-consultation-on-the-proposed-national-policy-statement-on-urban-development/">https://environment.govt.nz/publications/material-for-ministerial-consultation-on-the-proposed-national-policy-statement-on-urban-development/</a>
6.	31/07/2019	2019-C-05353 Public consultation on a	Refused	18(d)

		proposed NPS-UD		<a href="https://environment.govt.nz/publications/public-consultation-on-a-proposed-national-policy-statement-on-urban-development/">https://environment.govt.nz/publications/public-consultation-on-a-proposed-national-policy-statement-on-urban-development/</a>
7.	1/08/2019	2019-B-05854 Housing and Building Assessment Policies for Consultation	Briefing released in part. Appendix refused	9(2)(a) <b>Appendix 18(d)</b> <a href="https://environment.govt.nz/publications/planning-for-successful-cities-a-discussion-document-on-a-proposed-national-policy-statement-on-urban-development/">https://environment.govt.nz/publications/planning-for-successful-cities-a-discussion-document-on-a-proposed-national-policy-statement-on-urban-development/</a>
8.	11/12/2019	2019-B-06275 December 2019 update on the NPS-UD	Refused	18(d) <a href="https://environment.govt.nz/publications/december-2019-update-on-the-nps-ud/">https://environment.govt.nz/publications/december-2019-update-on-the-nps-ud/</a>
9.	05/02/2020	2020-B-06424 NPS-UD initial preferred policy approach	Refused	18(d) <a href="https://environment.govt.nz/assets/Publications/Cabinet-papers-briefings-and-minutes/briefing-npsud-initial-preferred-policy-approach-post-consultation.pdf">https://environment.govt.nz/assets/Publications/Cabinet-papers-briefings-and-minutes/briefing-npsud-initial-preferred-policy-approach-post-consultation.pdf</a>
10	5/03/2020	2020-B-06529 Update on NPS on Urban Development	Refused	18(d) <a href="https://environment.govt.nz/assets/Publications/Cabinet-papers-briefings-and-minutes/briefing-update-on-the-national-policy-statement-on-urban-development.pdf">https://environment.govt.nz/assets/Publications/Cabinet-papers-briefings-and-minutes/briefing-update-on-the-national-policy-statement-on-urban-development.pdf</a>
11	25/03/2020	2020-B-06469 NPS-UD policy recommendation package	Refused	18(d) <a href="https://environment.govt.nz/assets/Publications/Cabinet-papers-briefings-and-minutes/briefing-national-policy-statement-on-urban-development-policy-recommendations-package.pdf">https://environment.govt.nz/assets/Publications/Cabinet-papers-briefings-and-minutes/briefing-national-policy-statement-on-urban-development-policy-recommendations-package.pdf</a>
12	23/04/2020	2020-B-06656 Interactions between the NPS-	Released in part.	Some information withheld under sections 9(2)(a) and 9(2)(f)(iv)

		UD and the NPS-HPL		
13	7/05/2020	2020-B-06683 Cover briefing draft Cabinet paper National Policy Statement on Urban Development	Refused	18(d)  <a href="https://environment.govt.nz/what-government-is-doing/cabinet-papers/draft-cabinet-paper-national-policy-statement-on-urban-development/">https://environment.govt.nz/what-government-is-doing/cabinet-papers/draft-cabinet-paper-national-policy-statement-on-urban-development/</a>
14	28/05/2020	2020-B-06799 Updated Cabinet paper on NPS-UD post ministerial consultation	Briefing released in part. Annexes refused.	9(2)(a)  <b>Annexes 18(d)</b>  Cabinet paper: <a href="https://environment.govt.nz/publications/national-policy-statement-on-urban-development/">https://environment.govt.nz/publications/national-policy-statement-on-urban-development/</a>  NPS-UD: <a href="https://environment.govt.nz/acts-and-regulations/national-policy-statements/national-policy-statement-urban-development/">https://environment.govt.nz/acts-and-regulations/national-policy-statements/national-policy-statement-urban-development/</a>  Regulatory Impact Statement: <a href="https://environment.govt.nz/publications/regulatory-impact-statement-national-policy-statement-on-urban-development/">https://environment.govt.nz/publications/regulatory-impact-statement-national-policy-statement-on-urban-development/</a>  National Policy Statement on Urban Development: Policy Recommendations Package briefing: <a href="https://environment.govt.nz/assets/Publications/Cabinet-papers-briefings-and-minutes/briefing-national-policy-statement-on-urban-development-policy-recommendations-package.pdf">https://environment.govt.nz/assets/Publications/Cabinet-papers-briefings-and-minutes/briefing-national-policy-statement-on-urban-development-policy-recommendations-package.pdf</a>
15	2/06/2020	2020-B-06831 Talking points National Policy Statement on Urban Development Final	Released in part	9(2)(a)
16	4/06/2020	2020-B-06838 NPS-UD ensuring effective implementation	Released in part	9(2)(a)



To Hon David Parker, Minister for the Environment CC Hon Phil Twyford, Minister of Housing and Urban Development CC Hon Nanaia Mahuta, Minister of Local Government CC Hon Shane Jones, Minister for Infrastructure CC Hon Julie Anne Genter, Associate Minister of Transport			Tracking: 2018-B-04566
<u>Security Level</u>	In-Confidence	Number of Attachments 1	Title of attachment 1. Regulatory National Direction Tools under the RMA
Date Submitted:	14 June 2018	Response needed by:	29 June 2018
MfE Priority:	Medium	Action Sought:	Decision

## Urban Growth Agenda: Urban Planning Pillar – proposed approach and next steps for national policy direction on quality intensification

### Key Messages

#### Purpose

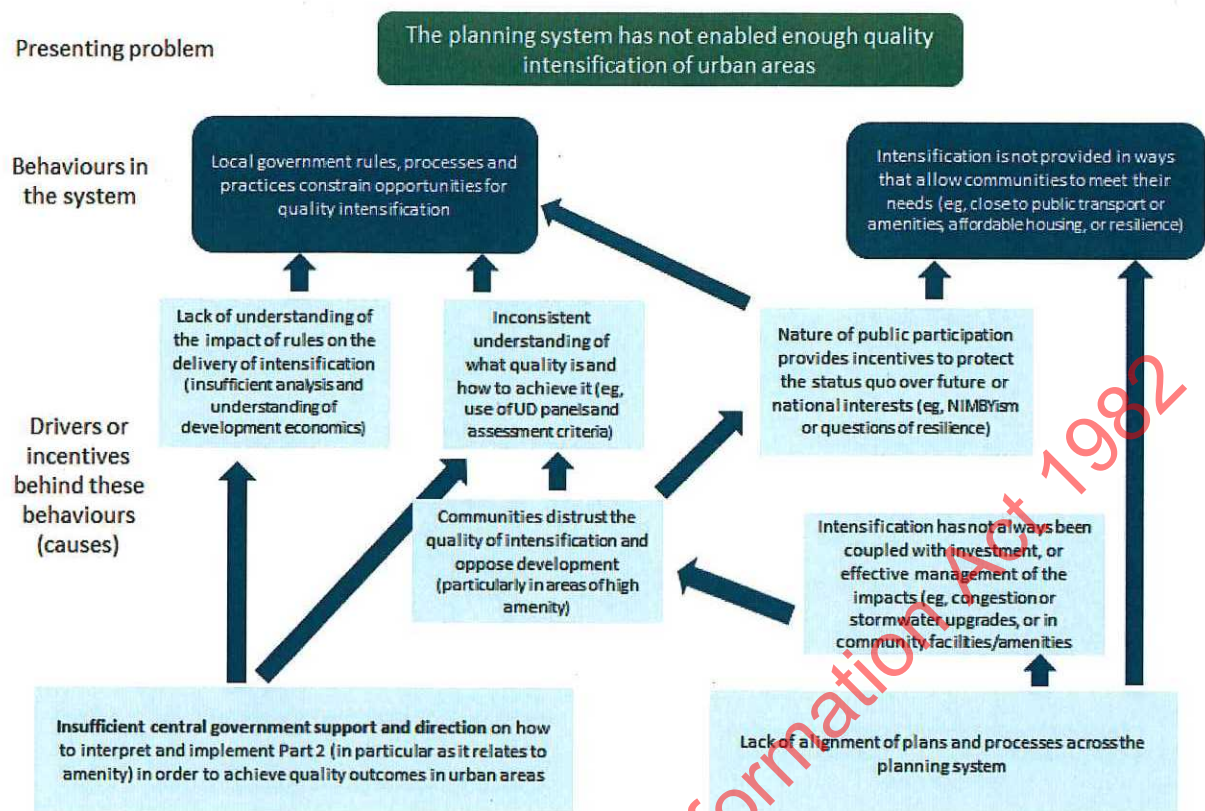
1. This briefing is the first of a series you will receive on the Urban Planning Pillar of the Urban Growth Agenda (UGA). It focuses on the steps needed to provide national policy direction to improve the planning system's performance in enabling quality urban intensification.

#### The Urban Planning Pillar is central to achieving UGA objectives

2. Cabinet has endorsed the UGA's objectives and five pillars of work, including the Urban Planning Pillar [CAB-18-MIN-0244 refers]. The UGA is a key part of the Government's wider Housing and Urban Development work programme [CAB-18-MIN-0242 refers].
3. The Urban Planning Pillar aims to improve the performance of urban planning so that it plays the role it should in ensuring that people and communities can access affordable housing. A key task for the pillar is to develop national policy to direct and guide councils on enabling quality intensification through their Resource Management Act (RMA) plans. It will ensure that plans, particularly in our fastest growing urban areas, provide the development opportunities needed to deliver greater housing choice (by type and price) in locations where people want to live.

#### The urban planning system is not playing the role it should in enabling the quantity or quality of development needed

4. As illustrated in the diagram below, there are many challenges with the urban planning system that restrict intensification. A range of interventions will be required over the short, medium and long term to address them.



5. Any planning system that involves people and communities in decision-making will be challenged by periods of growth and change. New Zealand's urban planning system has not always dealt well with the pace and scale of development needed in fast growing urban areas, and many RMA plans have not anticipated and enabled the quantity or quality of development required to meet the changing needs of communities.
6. This has been a significant contributor to rising house prices and falling affordability in our largest urban areas. Initial results of the Auckland Unitary Plan (AUP) and the National Policy Statement on Urban Development Capacity (NPS-UDC) suggest that they have begun to improve aspects of the system. However, the results have also highlighted a number of wider issues that deserve scrutiny, including:
  - the individual and cumulative impacts of local planning rules, processes and practices overly constrain intensification while others could better incentivise quality intensification
  - where intensification is happening, it is not consistently of the quality, type, location or price to meet local demand, for instance by being affordable, close to public transport or resilient to climate change.
7. **Appendix 1** provides further information about progress on the AUP and NPS-UDC.

*Insufficient central government policy leadership is an underlying cause of these challenges*

8. A growing body of evidence and experience suggests that an underlying cause of the variable quality of local planning rules and practice is insufficient central government policy leadership to assist councils and other decision-makers apply Part 2 (the purpose and principles) of the RMA, particularly in urban areas.
9. Part 2 of the RMA sets out the purpose of 'sustainable management of natural and physical resources' and the matters of national importance (principles). The principles include bio-physical, physical and aesthetic values, and how they are translated into plans and decisions has been the subject of a substantial amount of challenge and litigation.

10. Early intentions to provide central government direction to help councils and other decision-makers interpret and implement Part 2 were not followed through. Consequently there has been a lack of central government policy leadership and guidance on how to interpret and apply the urban-centric principles in Part 2, including how to define, measure and balance or trade-off 'amenity values'<sup>1</sup> in planning decisions in urban areas.
11. This has resulted in inconsistent and frequently inappropriate use of local regulations to protect the status quo. Without national direction to better reflect the opportunities provided by development, the perception that any change inevitably reduces amenity has led to many instances of overly restrictive council plan rules, such as height limits and setbacks.

### **National policy direction on quality intensification is part of the solution**

12. You have asked for advice on options to use national policy direction to better enable quality intensification.
13. We are currently building the evidence base to target national direction to where it is needed to better reflect the intent of Part 2 in urban areas – in plans, planning practices and ultimately in the delivery of quality intensification on the ground.
14. Well-targeted national policy direction, supported by well-designed non-regulatory guidance and support, can provide positive direction to councils to improve plans and planning practices. The diagram and table attached as **Appendices 2 and 3** provide information about the different national direction tools, the processes (including likely timeframes) to develop and implement them, and the pros and cons of each tool.
15. Due to the complexity of urban planning, we recommend that the best solution is likely to involve a mix of both regulatory and non-regulatory tools. Whichever tool or tools are selected, they will need to be complemented by guidance and implementation support for councils and other decision makers if they are to be effective.
16. Last year's amendments to the RMA have given you more scope for using national policy statements. For example, they can now apply to geographically specific areas and direct councils on the methods to use in making planning decisions. The same amendments have also made it easier to amend existing national policy statements, such as the NPS-UDC.

## **Analysis and Advice**

### **There are a number of options for using national direction to better enable quality intensification**

17. The national direction tools that could be used to achieve quality intensification objectives detailed in **Appendix 3** are:
  - **A new national policy statement on quality intensification** – could focus on removing regulatory barriers to increased (medium and high) density development in accessible and well-served locations. It could also set expectations about what a quality built environment should achieve. This new national policy statement could be targeted to specific geographic areas, such as Auckland, and could include a method for councils to follow.
  - **Strengthening the NPS-UDC** – the NPS-UDC already provides some of the building blocks for national policy direction and guidance on quality intensification. The actions required under the NPS-UDC are focused on identifying and providing development capacity for housing and business

---

<sup>1</sup> One of the matters of national importance listed in Part 2, section 7 of the RMA.

needs. While the NPS-UDC does not provide direction or guidance on how to achieve quality intensification specifically, it does require plans to provide sufficient development capacity for housing in the locations, of the types and at the prices needed. The NPS-UDC could be amended, extended or strengthened to provide more detailed and targeted direction and guidance on these requirements.

- **New National Planning Standards content** – could develop zoning provisions (including corresponding objectives, policies and rules) for medium/high density zones.
- **A new national environmental standard** – could set rules/requirements for achieving aspects of quality built environments related to particular matters such as car parking, affordability or urban design. However, our initial assessment is that it would not be straightforward to develop a new national environmental standard for quality intensification due to the breadth of matters to be addressed and the variability of effects in different urban areas.

18. You can choose how to use national direction. For example, there are choices about:

- where and how national direction might apply to certain areas (for example, the NPS-UDC provides different requirements for councils based on their projected growth profiles)
- how prescriptive or performance based national direction is. National direction can be prescriptive (for example, preventing councils from using a particular type of rule). Alternatively, national direction can be performance based, setting clear expectations about outcomes while providing flexibility for councils to determine the response suitable for local conditions (for example, by requiring significant up-zoning around train stations and other public transport hubs).

19. Decisions about the preferred approach to national direction (such as whether to take a prescriptive or performance based approach) and the types of plan rules to be targeted will help determine which tool or mix of tools is most fit-for-purpose.

### **National direction will need to define quality intensification**

20. National direction should focus on enabling well-functioning urban areas that work and continue to work for people, rather than focusing heavily on aesthetic quality. For example, some commonly agreed features of well-functioning urban areas are that they provide:

- choices for the location and type of housing to meet the needs of diverse communities
- easy access to employment, education and services.

21. Well-functioning urban areas also play their part in achieving wider environmental outcomes, such as assisting emission reductions (for example, by providing good access to public transport) and building climate resilience (for example, by ensuring that new residential development is not flood prone).

22. Well-functioning urban areas are continually evolving to meet demand and respond to changing circumstances and technologies. There is an opportunity for national direction on quality intensification and the wider urban planning work to support a shift in the way that existing communities respond to urban change and growth.

23. This framing of quality intensification as well-functioning urban areas is consistent with the UGA objectives. We will look to build expectations around quality intensification into existing initiatives, such as KiwiBuild and the Urban Development Legislation.

24. The national direction work will focus on specific types of council rules that either enable or restrict opportunities for quality intensification. Examples of rules that can restrict intensification include density and height limits, minimum private open space and outlook,

balcony requirements, setbacks and height in relation to boundary requirements, and minimum car parking requirements. While these rules are often intended to provide for 'quality' development and protect neighbourhood amenity, their cumulative impact on the delivery of higher density development often outweighs their benefit. We consider it would be beneficial to provide direction on how decision-makers interpret and implement Part 2 of the RMA, in particular as it relates to amenity and quality built environments.

### **The RMA prescribes the process for developing a national direction instrument**

25. The RMA prescribes process requirements for developing national direction. National policy statements or national environmental standards can either be developed using a Board of Inquiry process or another process set by the Minister for the Environment that includes adequate consultation with the public and iwi authorities and clear reporting requirements.
26. A consultation document must include:
  - an outline of the development process
  - a description of the problems to be addressed, including supporting evidence
  - a description of the policy objective
  - an analysis of alternative ways of achieving the policy objective
  - a description of the proposed national policy statement and how it will work in practice
  - a preliminary cost benefit report.
27. These consultation requirements also apply to amendments to existing national policy statements or national environmental standards, and similar consultation requirements apply to the development of national planning standards content.
28. Following consultation, a summary of submissions and an updated cost benefit report must be provided to the Minister for the Environment and the Minister's agreement must be sought to any changes to the instrument. Following the Minister and Cabinet's agreement to any changes to the instrument, it is approved by the Governor-General.
29. Development timeframes for national direction instruments vary. The NPS-UDC was the quickest process for a national policy statement to date and was gazetted in 18 months (refer to **Appendix 3** for further examples).

### **Stakeholder and public engagement will be important**

30. We recommend that stakeholder and public engagement on the urban planning proposals take the form of:
  - a public discussion document for engagement (discussed below)
  - the use of existing central government, local government relationships (developed through the NPS-UDC in particular)
  - engaging key stakeholder groups
  - the use of technical experts to inform the development of proposals.

### **We recommend developing a discussion document**

31. We recommend developing a public discussion document as a key way of engaging with stakeholders and the public on proposals for national policy direction on quality intensification and other urban planning matters.
32. We propose to brief you in stages to seek your agreement to the content of a discussion document. Depending on its scope, the discussion document could be published in October 2018 to enable public engagement with it this year.

## Consultation and Collaboration

---

33. The following agencies have been consulted: the Ministry of Business, Innovation and Employment (MBIE), Treasury, Ministry of Transport and Department of Internal Affairs. We have incorporated agencies' feedback where possible and we will continue to work with these agencies to resolve outstanding questions.

## Risks and mitigations

---

34. There are no risks associated with this briefing's recommendations. Risks may arise later in the process when Ministers' decisions are sought on proposals for national direction.

## Legal issues

---

35. There are no legal issues associated with this briefing's recommendations. Legal has reviewed the table of national direction tools attached as **Appendix 3**.

## Financial, regulatory and legislative implications

---

36. There are no financial, regulatory or legislative sensitivities or implications associated with this briefing. Regulatory implications may arise later in the process when Ministers' decisions are sought on proposals for national direction.

## Next steps for national direction on quality intensification

37. Between now and October 2018, we will brief you on:

- options for national direction to target plan rules and methods in councils' plans that are enabling or restricting quality intensification (late July 2018)
- potential options for further guidance and support for the NPS-UDC to improve council responses to housing types, locations and price points requirements (late July 2018)
- potential options for the scope of the geographic application of the national direction.

## Next steps for other Urban Planning Pillar matters

38. We intend to brief you on the following urban planning matters in July 2018, either separately or combined:

- approach and next steps for strategic integrated (spatial) planning
- options to support improvements in urban planning culture and capability

39. As noted above, we intend to brief you in stages on the proposed content for a public discussion document (August to October 2018).

40. We will be meeting with key stakeholders, including Auckland Council, to discuss the Urban Planning Pillar work (including national direction on quality intensification) and to inform policy development.

## Recommendations

---

41. We recommend that you:

- a) **Agree** to a discussion document for public engagement on national policy direction on quality intensification and other urban planning matters.

Yes/No

- b) **Note** that we will seek direction from Urban Growth Agenda Ministers over the coming months in order to inform the approach and content of the proposed discussion document.
- c) **Note** that a range of different measures to address problems with the urban planning system, such as national direction instruments, guidance, building on existing relationships with councils, and future legislative reform are likely to be needed to achieve the aims of the Urban Planning Pillar.
- d) **Note** that officials will continue to explore a mix of interventions, including a suite of national direction on quality intensification.

### Signature

---



Name: Lesley Baddon  
Director,  
Urban and Infrastructure Policy  
Ministry for the Environment

Hon David Parker  
Minister for the Environment

Date

### Ministry for the Environment contacts

---

Position	Name	Cell phone	1 <sup>st</sup> contact
Senior Policy Analyst	Marguerite Quin	027 241 8055	
Manager, Urban and Infrastructure Policy	Kate Sedgley	022 076 4508	
Director, Urban and Infrastructure Policy	Lesley Baddon	021 738 357	✓

## Appendix 1

### Progress on recent interventions in the urban planning system

#### *Auckland Unitary Plan*

42. The final Auckland Unitary Plan (AUP) provides considerably more residential development capacity than the Proposed Auckland Unitary Plan (PAUP) had provided for. This aligns with the Auckland (Spatial) Plan, which identified the need for approximately 400,000 additional dwellings in the Auckland region by 2041. The influence of the Independent Hearings Panel on the final AUP was significant in creating the provision for higher density development in Auckland. For example, the Panel recommended changes to the PAUP to:

- provide considerable 'up-zoning' of land
- delete or consolidate a number of development constraining overlays
- provide for more intensive residential activities within 800 metres (walking distance) of train stations
- reduce car parking requirements
- permit the establishment of minor dwellings within single house zones
- remove density restrictions in some intensive zones
- reduce the complexity of the resource consenting process by deleting unnecessary information or assessment requirements.

43. However, there is evidence that subsequent decisions by Auckland Council and the Environment Court are eroding capacity. This suggests the need for further intervention.

44. While there are still improvements that can be made to the AUP, the lessons learnt from this process can be applied to the development of proposals under the Urban Planning Pillar. There are opportunities to further enable development through the AUP, and these will be described in a briefing to be provided by 30 June 2018.

#### *National Policy Statement on Urban Development Capacity (NPS-UDC)*

45. The NPS-UDC, the only urban-focused piece of national direction under the RMA, requires councils to ensure that their RMA plans enable sufficient development capacity to meet demand for housing and business capacity, now and into the long term (30 years). Although it is still early days, anecdotal evidence suggests that councils and developers are using the NPS-UDC to propose increased densities and new development. We will brief you on NPS-UDC implementation by 30 June 2018.

46. Through the preparation of Housing and Business Development Capacity Assessments (HBAs), the NPS-UDC is helping councils quantify in broad terms how much development capacity should be enabled in RMA plans and supported with development infrastructure. This in turn will guide whether a planning response (such as a plan change) is required and the nature of that response.

47. The NPS-UDC provides a useful foundation for national direction on quality intensification. While the NPS-UDC does not provide direction or guidance on how to achieve quality intensification specifically, it does require plans to provide sufficient development capacity for housing in the locations, of the types and at the prices needed. Guidance could be developed to support councils to better understand and respond to these requirements.

#### *2017 RMA amendments*

48. The RMA amendments in 2017 provided the ability to better target national direction. For example, national policy statements can now include more specific direction on how

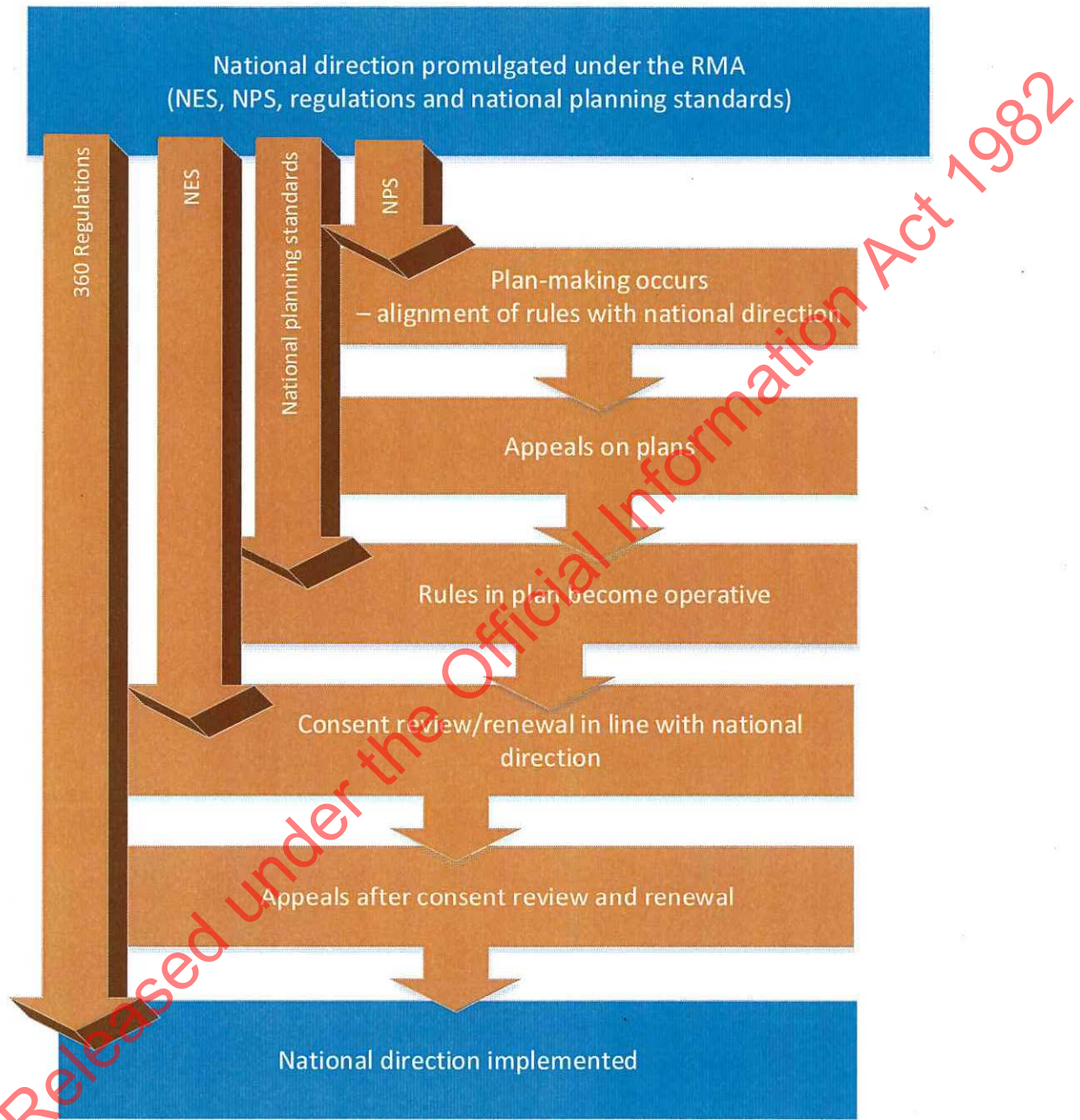
objectives and policies are to be given effect to in councils' policy statements and plans, and there is greater flexibility to target national direction to particular parts of New Zealand, for instance a national policy statement could target Auckland or the Auckland to Hamilton corridor.

49. The 2017 amendments also provided for National Planning Standards, which offer the potential to improve planning consistency and quality across the board. Further information about the Standards is provided in **Appendix 3**.

Released under the Official Information Act 1982

## Appendix 2

### Regulatory national direction tools under the Resource Management Act



## Appendix 3

### Regulatory National Direction Tools under the Resource Management Act

There are a number of regulatory national direction tools that could help you achieve your desired outcomes in urban areas. While the only existing national direction tool solely focused on urban issues is the National Policy Statement on Urban Development Capacity, any of the tools could be used. The different tools impact on different parts of the planning system. For example, a National Policy Statement works on changing the system settings which then filters through into the specifics in local council plans, while National Environmental Standards address specific technical and discrete matters in the system that are inserted directly into council plans. The new National Planning Standards could impact at all levels, however they are limited in ability to direct methods for addressing particular issues in the way that a National Policy Statement can.

Option	What is it?	How could this tool help to deliver quality intensification	Pros	Cons
<b>National Policy Statement (NPS)</b>	<p><b>Powers:</b> An NPS sets the policy framework for matters of national significance by defining objectives and policies. This sets a clear framework for council plan-making, which flows down through levels of plans and processes. An NPS can include more specific direction on how these are to be given effect to in local planning documents (eg, by providing methods, or by stating limits on the content of a plan).</p> <p>Recent changes to the RMA have broadened the scope of NPSs to include the ability to specify methods or requirements that apply, and any specifications for how to apply them. These changes also allowed NPSs to apply to specific geographical areas as well as more generally.</p> <p><b>Process:</b> Either a Board of Inquiry process or another process set by the Minister for the Environment which includes adequate consultation with the public and iwi authorities and reporting requirements.</p> <p><b>Speed:</b> Development timeframes vary – the NPS-UDC was the quickest process for an NPS to date and was gazetted in 18 months.</p>	<ul style="list-style-type: none"> <li>An NPS could set out the objectives and policies that direct councils to recognise the importance of quality intensification, eg, directing councils to: <ul style="list-style-type: none"> <li>Remove barriers to higher density development in accessible and well-served locations</li> <li>Ensure that plans provide for different housing types to meet community needs eg, retirement villages and boarding houses</li> <li>Integrate development with public and other active transport.</li> </ul> </li> <li>An NPS could help councils better interpret the purpose of the RMA, and matters laid out in Part 2 of the RMA in developing their plans (for example section 7(c) "the maintenance and enhancement of amenity values").</li> </ul>	<ul style="list-style-type: none"> <li>Provides national direction while retaining flexibility for local decision makers.</li> <li>Resource consenting processes need to take an NPS into account immediately, although its effect is limited until the NPS is integrated into relevant RMA planning documents.</li> <li>An NPS can direct a council to amend a plan without using the standard RMA plan-making process, saving time and complexity.</li> </ul>	<ul style="list-style-type: none"> <li>Does not set rules directly. This means implementation can dilute objectives and take some time to deliver results on the ground, particularly if there are standard plan change consultation requirements.</li> <li>Councils can and do interpret and incorporate NPSs into plans inconsistently.</li> <li>Ongoing direction, support and guidance to support implementation is resource intensive. Depending on how a new NPS is written, it could cause confusion or disrupt existing processes underway for the NPS-UDC.</li> </ul>
<b>Amend existing NPS-UDC</b>	<p>The National Policy Statement on Urban Development Capacity (NPS-UDC) is currently the only solely urban-focused national direction tool. It recognises the national significance of urban environments and directs councils to provide sufficient opportunities for development to meet current and future demand.</p> <p><b>Process:</b> any amendment to the NPS-UDC would involve the same consultation process requirements as developing new national direction; however it could take less time.</p>	<ul style="list-style-type: none"> <li>The NPS-UDC sets objectives for planning decisions to ensure effective and efficient urban environments for current and future generations. The NPS-UDC could be amended to include more direction on how this should be achieved for quality intensification.</li> <li>Could be amended to provide a new set of policies focused on quality intensification or development.</li> </ul>	<ul style="list-style-type: none"> <li>The NPS-UDC already provides the framework for direction on quality intensification eg, the preamble discusses well-functioning cities, managing change and meeting future as well as current needs.</li> <li>Could build on existing work done by councils in identifying development needs and developing future development strategies.</li> </ul>	<ul style="list-style-type: none"> <li>Depending on how the NPS-UDC is amended it could cause confusion or disrupt existing processes underway to give effect to it.</li> </ul>
<b>National Environmental Standard (NES)</b>	<p><b>Powers:</b> NESs are regulations that set specific standards/rules for discrete issues. They can also permit or restrict specified activities. A key intention of an NES is to provide for/improve national consistency on technical matters, and how certain activities are treated in RMA plans.</p> <p><b>Process:</b> Same process for developing/amending an NPS.</p> <p><b>Speed:</b> Development timeframes vary – NES Telecommunication Facilities and NES Electricity Transmission were done in 2 years. Less complex NESs can be completed in a shorter timeframe.</p>	<ul style="list-style-type: none"> <li>Could set requirements for the urban fabric to achieve quality built environments as related to particular matters, eg, car parking requirements, bulk and location provisions, requirements for affordability, or urban design requirements.</li> <li>Could provide rules to implement a new NPS or to support the NPS UDC.</li> </ul>	<ul style="list-style-type: none"> <li>Sets nationally consistent standards/rules</li> <li>Provides clarity and certainty for certain activities</li> <li>Can be used to support implementation of an NPS</li> <li>Immediate effect. Once in place councils must observe and enforce the NES</li> <li>Plan changes generally only required to remove conflicts or rules that duplicate the NES (standard RMA plan-making process generally not required)</li> </ul>	<ul style="list-style-type: none"> <li>While an NES can apply nationally, or only to certain areas, it can be difficult to develop suitable 'one size fits all' rules while acknowledging the different needs of different urban areas. For example, matters such as car parking require appropriate spatial application within a territorial area.</li> <li>Existing NESs currently deal with discrete resource management issues where the same management needs/requirements can be identified and provided for through rules eg, contaminated soil or air quality. Quality intensification is a very broad umbrella issue connecting a large number of matters. It may be too broad in scope to be able to be practically developed into a workable and effective NES.</li> </ul>
<b>National Planning Standards</b>	<p><b>Powers:</b> Require councils to include specific provisions in plans or policy statements, or allow councils to choose from a suite of provisions to suit their local circumstances.</p> <p><b>Process:</b> First set of Standards to be gazetted in April 2019 (consultation processes for the first set of standards underway from 06/06/18 – 17/08/18). Timeframes for the second set of Standards have not yet been set. Draft Standards must go through a similar consultation process for developing a NPS.</p> <p><b>Speed:</b> RMA timeframes require discretionary directions in the first set of Standards to be implemented in 5 years from gazettal (however some councils have 7 years if they have recently been through a plan review process) and mandatory directions in 1 year.</p>	<ul style="list-style-type: none"> <li>Could use tools such as zoning or overlays to encourage intensification in certain areas. For example a high density zone could have a suite of corresponding policies and rules for design criteria and density requirements.</li> <li>Could set direction throughout plans and policy statements on quality intensification.</li> </ul>	<ul style="list-style-type: none"> <li>Plans and policy statements could be easier to develop, comply with and understand.</li> <li>Could support an NPS with corresponding standards for plans.</li> </ul>	<ul style="list-style-type: none"> <li>Take a long time to effect change on the ground if relying on implementation through local council plans. However, if developed and ready to go, an Urban Development Authority could pick them up and use them immediately.</li> </ul>



## National direction on quality intensification – detailed policy proposals

Date Submitted: 6 December		Tracking #: 2018-B-05074	
Security Level	In Confidence	MfE Priority:	Non-Urgent
		<b>Action sought:</b>	<b>Response by:</b>
To Hon David Parker, Minister for the Environment		Decision	14 December
Actions for Minister's Office Staff	<p><b>Forward</b> this report to other Urban Growth Agenda Ministers in advance of the 13 December meeting: Hon Phil Twyford, Minister of Housing and Urban Development, Hon Nanaia Mahuta, Minister of Local Government, Hon Shane Jones, Minister for Infrastructure, and Hon Julie Anne Genter, Associate Minister of Transport.</p> <p><b>Arrange</b> for a conversation between Ministers Parker and Twyford before 13 December since Minister Parker is not attending the UGA Ministers meeting.</p> <p><b>Return</b> the signed report to MfE.</p>		
Number of Attachments #	<p>Titles of attachments:</p> <ol style="list-style-type: none"> <li>Quality Intensification: proposed content for a National Policy Statement</li> <li>Quality Intensification: proposed content for a National Environmental Standard</li> </ol>		
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	Stephanie Gard'ner	022 076 4490	
Responsible Manager	David Chittenden	022 318 7756	
Director	Lesley Baddon	021 738 357	✓

## National direction on quality intensification – detailed policy proposals

### Key Messages

#### **We have further developed content for a National Policy Statement and a National Environmental Standard to support delivery of quality intensification**

1. This briefing proposes policy content for a National Policy Statement (NPS) and National Environmental Standard (NES) on quality intensification. The proposed NPS would set broad quality outcomes across urban environments and provide specific policies targeted to intensification. We propose to develop the NES in parallel but on a slightly longer timeframe to allow for further testing.
2. The NPS will provide the greatest impact on the system in the medium to long-term and we propose to continue to develop its content, as outlined in Appendix 1, in advance of preparing materials for Cabinet consideration and public and iwi consultation in April – May 2019.
3. We have tested the potential to support the NPS with one or more NES targeted at removal or revision the specific rules and processes that are hindering quality intensification. We consider that using the power of an NES to enable development is a new and potentially powerful means of making immediate and direct impacts on plans. Its novelty and directness however means that we propose to develop the NES over a longer timeframe and to use the Auckland Partnership and broader engagement with stakeholders to further hone, test, and evidence its design. We propose to provide you with firm advice on the NES by mid – 2019. This proposal for this NES is outlined in Appendix 2.
4. We are seeking feedback from you on the proposals in this briefing in advance of the Urban Growth Agenda (UGA) Ministers meeting on 13 December which we understand that you cannot attend. We will incorporate your feedback for the discussion at the meeting. We suggest that you meet with Minister Twyford to discuss your feedback in advance of the UGA Ministers meeting.
5. Further work across the Urban Growth Agenda and beyond is needed to deliver the substantive behaviour shifts required to fully realise quality intensification. This includes work to address systemic issues across resource management, as well as to better understand the specific constraints of the development sector in delivering quality intensification. As noted previously, delivery of this work in the longer term assumes a successful budget bid.

#### **Engagement with key stakeholders and lessons from implementing other national direction has shaped policy proposals**

6. We have further drawn on lessons from implementing the National Policy Statement on Urban Development Capacity (NPS-UDC), other parts of the UGA and the wider Housing and Urban Development programme to further develop proposed content for the NPS and NES. Engagement with our technical expert group, agencies and Auckland Council officers has also informed these proposals.
7. We seek your feedback on:
  - the broad shape of the instruments, including:
    - the proposed broad approach for defining quality to set expectations in a range of contexts

- an approach that directs where intensified development should be zoned and requires monitoring and review of rules if development is not occurring within these zones (rather than directing where particular rules should not be used).
  - consulting on a single NPS that combines the quality intensification content with the existing NPS-UDC, and which would also include proposals to strengthen and clarify existing content in the NPS-UDC
  - the proposal to develop the NES on a parallel but slightly longer timeframe as part of the wider urban planning implementation support package.
8. The proposed NES is intended to incentivise councils and developers to deliver quality intensification. To do so it must be an attractive alternative to the normal process without compromising the system. Due to the specific and directive nature of a NES, the potential for unintended consequences and the capability and time required to work through these issues we propose to develop the NES over a slightly longer timeframe. One of the strengths of an NES is that it can alter plans directly, however that means that if it is wrongly or ineffectively targeted, it will be either unattractive to developers and not used, or create unintended consequences.
  9. We consider that the NPS has the potential to have a broad and deep impact on the system. This approach would allow for effective and focussed consultation on the NPS and the wider urban planning pillar in April-May 2019. The NES will continue to be developed in parallel, with firm advice on the design of the NES by mid 2019. We will continue to work with you through the budget process and on prioritising the work.
  10. We also seek your agreement to using an alternative process for consultation on the package rather than a Board of Inquiry. This approach would deliver national direction at least three months earlier, be more cost effective, and ensure wider government objectives are considered in producing recommendations.
  11. The slightly later timeline for the NES would mean consulting in the second half of 2019, and allowing for PCO drafting, would mean that it could be in place with immediate effect by mid 2020, following the NPS which would be in place but with more gradual impact by the end of 2019.
  12. The proposed instruments will continue to be developed based on your feedback, further evidence, legal advice, and testing with key stakeholders. This may result in some change or adaptation of the proposals outlined in this paper. The policy content will also undergo legal review prior to Cabinet consideration which may require some changes to ensure that specific objectives, policies and rules are vires the Resource Management Act 1991 (RMA).
  13. We will provide you with a draft NPS, advice on a wider package of implementation support (including the proposed NES), consultation materials and a Cabinet paper in March 2019. We will update you on the progress of this work early next year. We are mindful of a number of public consultation processes planned for 2019 and so this will also include advice on the ways to manage interactions with other urban and related work planned for consultation over a similar timeframe, for example fresh water and air quality.

## Recommendations

---

14. We recommend that you:

- a. **Note** that we are progressing work on the national direction package and wider implementation support alongside further thinking about the substantial system shifts needed to fully support quality intensification
- b. **Agree** that we focus development on the proposed National Policy Statement for consultation in April – May 2019 and progress the National Environmental Standard on a slower timeframe as part of the wider implementation package  
Yes/No
- c. **Note** that we will provide you with firm policy advice on the NES by mid- 2019
- d. **Agree** that we further develop the expected quality outcomes for well-functioning urban environments, and define quality intensification as intensification that contributes to these outcomes  
Yes/No
- e. **Agree** that we further develop the National Policy Statement to be directive about where intensification should occur and when councils must act in response to inadequate intensive development  
Yes/No
- f. **Agree** that we prepare for consultation a single urban National Policy Statement that includes quality intensification and the existing National Policy Statement on Urban Development Capacity  
Yes/No
- g. **Agree** that we progress work to identify areas to strengthen the National Policy Statement on Urban Development Capacity as part of consultation on a single urban National Policy Statement  
Yes/No
- h. **Agree** that we undertake wider engagement, including with high-growth councils and the development sector, to help further develop the policy proposals  
Yes/No
- i. **Agree** to use the alternative consultation process rather than a Board of Inquiry  
Yes/No
- j. **Note** that we will continue to work through policy and technical issues for the package, and will provide you with an update in early 2019 in advance of preparing materials for Cabinet consideration and public consultation
- k. **Note** that the proposed package is not currently budgeted for and that we will work with you to seek additional funding to enable delivery through Budget 2019
- l. **Forward** this briefing to other Urban Growth Agenda Ministers for discussion on 13 December: Hon Phil Twyford, Minister of Housing and Urban Development, Hon Nanaia Mahuta, Minister of Local Government, Hon Shane Jones, Minister

for Infrastructure, and Hon Julie Anne Genter, Associate Minister of Transport

Yes/No

- m. **Discuss** this briefing with the Minister of Housing and Urban Development in advance of the Urban Growth Agenda Ministers meeting on 13 December

## Signature

---



Lesley Baddon  
Director  
Natural and Built Systems, Urban and Infrastructure

Hon David Parker  
**Minister for the Environment**

**Date**

Released under the Official Information Act 1982

# National direction on quality intensification – detailed policy proposals

## Supporting material

### Purpose

---

1. This briefing proposes policy content for a National Policy Statement (NPS) and National Environmental Standard (NES) on quality intensification. The proposed NPS would set broad quality outcomes across urban environments and provide specific policies targeted to intensification. We propose to develop the NES in parallel but on a slightly longer timeframe to allow for further testing.
2. We are seeking your feedback and direction on these proposals in advance of the Urban Growth Agenda Minister's meeting on 13 December which we understand that you cannot attend.

### Context

---

3. Our previous briefing advised that a package of national direction comprising a NPS, a NES, and zone content for the national planning standards could help to support the systemic shifts required to achieve quality intensification within the Resource Management Act 1991 (RMA) system (18-B-05003 refers).
4. Further work beyond national direction is needed to deliver the substantive behaviour shifts required to fully realise quality intensification. We are engaging with the resource management system reform work to identify any changes needed to address the deeper issues identified in our previous briefing, and are working with Housing and Urban Development officials to better understand the constraints of the development sector in delivering quality intensification.
5. Work on quality intensification links strongly to a range of connected pieces of work across the UGA and in the wider work programmes for resource management and housing and urban development. We are working to ensure alignment across the proposed policy programme. This includes engaging closely with work on spatial planning frameworks, legislative reform, other work on national direction, and existing and new interventions such as KiwiBuild and the new Urban Development Authority.
6. The timing and scale of this work programme is to an extent dependent on the current budget process.
7. You and other UGA Ministers agreed to us further developing a NPS and NES and noted that we would report back in December with more detailed policy proposals. The direction proposed for a potential NPS and more detailed approach for an NES are set out in Appendices 1 and 2.

### Analysis and Advice

---

8. We consider that the proposals in Appendices 1 and 2 support the purpose of the RMA by enabling housing and urban development to be managed in a way which uses land more efficiently to better meet the needs of communities and future generations, while enabling people and communities to provide for their wellbeing and live affordably and sustainably within urban environments.

**The NPS and NES could incentivise quality intensification through a mix of high level objectives that link to more directive policies and rules.**

9. We are seeking your feedback and direction on the aspects below relating to the design and timing of the NPS and NES proposals.

*Taking a broad and flexible approach to defining “quality”*

10. Our discussions with the development sector have highlighted that quality urban design requires flexibility to allow for innovation and creativity, and as a result we are proposing an approach which focusses on outcomes sought, allowing for a variety of approaches to developing in intensifying areas.
11. We are seeking your comfort with our proposed approach where we state the quality outcomes that apply to well-functioning urban environments in the whole (regardless of intensity). The alternative approach of defining quality in relation to intensification specifically is not recommended as it would not apply as easily across the range of development contexts where ‘quality’ is important. Our recommended approach would:
- enable the NPS to set quality expectations across all RMA interventions delivered by local government in urban environments
  - apply in a broad range of contexts, including across greenfield and brownfield development, and at different spatial scales
  - allow for flexible application of quality outcomes across council plans.
12. We propose more directive policies related to quality intensification specifically in the NPS and potentially rules in the NES, to ensure that intensification gives effect to the quality urban outcomes applying to the whole urban environment.
13. High level outcomes could also be supported by further regulatory or non-regulatory guidance and implementation support. This would provide an opportunity to be aligned across Government’s urban development and wider programme, for example by joining up work related to public health, physical activity, universal design, street design, and urban water. We will provide you with further information on a proposed implementation programme in 2019.

*How directive the instruments should be*

14. Intensification that contributes to quality outcomes can be directed through policies and rules in the national direction package. There is a range of potential approaches to this depending on how directive and how specific you would like these policies to be.
15. Experience from implementing other national direction shows that the best outcomes are achieved when flexibility in direction allows for innovation and creativity while being undertaken in pursuit of clear outcomes. Providing for this flexibility requires a careful balance of prescription and enablement.
16. We propose to use a combination of directing where medium and high density development should be enabled through zoning, and requiring that councils review the effectiveness of rules when expected levels of intensification are not occurring within those zones (for example by identifying trigger points at which stage constraining rules must be reconsidered).
17. This approach would be strengthened by existing direction under the NPS-UDC that requires councils to provide sufficient opportunities for development to meet current and future demand, effectively setting a bottom line for the capacity to be provided. Any response would therefore need to be in the context of meeting these bottom line capacity requirements.

18. This approach would direct councils to act when information shows that they need to, but give flexibility about the nature of their response. In combination with the NPS-UDC starting point of sufficient capacity, direction would support councils to manage priorities across their plans (including other national direction) while still achieving the outcomes sought. However, the response by councils would be less certain than with a more specific policy.
19. The alternative approach would be to set a policy that specified rules which could not be used in a particular context (eg when certain criteria were met). This would require change, but may not have the anticipated effect, as the cumulative impact of rules tends to be more important than individual rules. For example, if one rule (such as minimum carparking) was not available, a different rule might begin to be used to effect the same result of limiting development activity.

*The policies can be targeted to place different requirements on different urban areas*

20. Aspects of the proposed NPS and NES content may not be relevant or appropriate for local authorities in all urban areas (for example, urban areas that are not experiencing growth). We propose that the instruments take a tiered approach to the application of objectives and policies, with broader outcomes applying more generally, but more directive requirements being applied only to areas where quality intensification outcomes are most needed. This aligns with the existing approach used in the NPS-UDC which applies policies based on the size and rates of growth of different urban areas.

*This is an opportunity to strengthen the NPS on Urban Development Capacity*

21. As advised in our previous briefing we consider that the proposed policy content could be delivered through a new NPS that combines the NPS-UDC with the proposed quality intensification content, and that there are significant advantages to having a single approach across urban issues. This would reduce complexity for local authorities and better integrate requirements across instruments. A combined NPS also provides the opportunity for us to strengthen and clarify limited parts of the NPS-UDC to incorporate lessons learnt through implementation to date.
22. We propose to consult on a combined option and are seeking your agreement in principle to include options to strengthen the existing NPS-UDC objectives and policies. As the NPS-UDC is yet to be fully implemented, amendments would be to strengthen current policy intent and improve practice as councils move into the 'second round' of the implementation cycle.
23. Key areas where the NPS-UDC could be strengthened or clarified include policies related to evidence and monitoring, and definitions. Proposed options to strengthen Future Development Strategy requirements have been identified through the Spatial Planning Framework workstream. You will receive a separate briefing on this next week.
24. There are also likely to be consequential amendments needed as a result of proposed new policies on quality intensification and spatial planning. Pending your agreement, we will progress work to identify proposed amendments and undertake engagement with councils and key experts to test options.

### **We recommend progressing the NES on a slower timeframe**

25. We have tested the potential to support the NPS with one or more NES targeted at removal or revision of the specific rules and processes that are hindering quality intensification. The key advantage of developing an NES is that as soon as it is developed it replaces existing rules in council plans, making it a potentially powerful means to have immediate and direct impact. The challenge for this NES is how to design it so that it integrates and aligns with objectives and policies in existing council plans without unintended consequences, while still providing a real incentive for increased development.

26. We have tested using an NES as an enabling tool and further developed and refined the NES we proposed in the previous briefing (18-B-05003 refers). Appendix 2 sets out our proposal developed through engagement with Auckland Council, our technical expert group and drawing on previous experience.
27. Key changes in development and in response to engagement include:
- changing from processing as a controlled activity (must be consented) to a non-notified restricted discretionary activity (enables greater assurance of quality, while retaining the strong advantage of non-notification)
  - removing the approach of sign-off being managed by an “appropriate expert”. This step was perceived as high-risk, both in terms of ensuring quality outcomes and in terms of having an adequate pool of experts given the likelihood of liability issues attached to decisions.
28. We consider that the approach set out in Appendix 2 has potential merits, but needs to be thoroughly evidenced and tested to work through the range of technical and legal issues as well as the unintended consequences highlighted through engagement (including the planning culture that this tool would operate within). These questions make it necessary to gauge carefully the impact of the proposal and the extent to which it would incentivise more quality intensification.
29. We therefore propose to develop the NES option on a slower timeframe as part of the wider package of implementation support for the urban planning pillar which will also addresses culture and practice. We will provide you with firm advice on the NES by mid—2019.

**There are a range of other matters that we are still working through**

30. The detailed policy proposals require further development, analysis and testing before public consultation. In particular proposals relating to urban amenity require legal analysis, which is underway. We will continue to work with targeted stakeholders on the proposals including our technical expert group, Auckland Council and sector experts who apply a Māori lens to their work.
31. We seek your agreement to engage with other councils and targeted sector experts to help further develop policies prior to Cabinet consideration. We consider that engaging with high and medium growth councils and the development sector in particular (alongside planned iwi engagement) would be beneficial to test and inform our analysis of policies.
32. We are also working with other agencies to better understand where there may be interactions with other work or tools. In particular we are working through interactions between the proposed NES and the proposed extension of the Housing Accords and Special Housing Area legislation. We will provide you with further advice on this as needed.

**We recommend using an alternative process to consult on the package**

33. The development or amendment of national direction requires public consultation. You can choose between either a Board of Inquiry (BOI) under (s47-52) or an alternative process (s46A) to progress public and iwi consultation requirements. In our last briefing we advised that an alternative process could better meet government needs for policy development.
34. An alternative process involves an agency-led consultation consisting of:
- preparing and releasing a discussion document for public and iwi authority consultation
  - receiving submissions (six weeks minimum) to be analysed by officials

- a summary of submissions report recommendations report produced by officials and presented to you.
35. We consider an alternative process will progress the proposed instruments more efficiently than a BOI process and is sufficient to meet the requirements of the RMA. It could deliver national direction at least three months earlier, be more cost effective, and ensure wider government objectives are considered in producing recommendations.
36. Public consultation on other national direction tools (highly productive soils and essential freshwater) has also been proposed for April-May 2019. We will need to manage carefully our communications approach with stakeholders as this is likely to have a significant impact on resources and the ability of councils, iwi and other stakeholders to make a submission. This may require an extension of the consultation period beyond minimum timeframes.

### **Consultation and Collaboration**

---

37. This briefing was developed with officials at the Ministry of Housing and Urban Development (HUD), and an early version was consulted with wider UGA agencies (the Treasury, Ministry of Transport and the Department of Internal Affairs), agencies with wider interests (Ministry of Health, Department of Conservation and Te Puni Kōkiri) as well as the New Zealand Transport Agency, Land Information New Zealand and Housing New Zealand Corporation.
38. There was general support for the proposed policy content of the NPS and shape of the NES and many reaffirmed a desire to keep working with the Ministry for the Environment and HUD to further develop the detailed policy.
39. Engagement with the urban planning pillar's technical expert group and Auckland Council officials has informed the content of the policy proposals. Engagement with Auckland Council officials in particular has shaped the NES content in Appendix 2.

### **Risks and mitigations**

---

40. There is a risk if Ministers choose to proceed with both the NPS and NES development for consultation in April-May 2019 that neither will have sufficient resources to facilitate effective public and iwi consultation. This risk could be mitigated by the recommended action to focus on development of the NPS and develop the NES on a slower timeframe as part of the implementation support once the outcomes from the budget process are known.

### **Legal issues**

---

41. A range of legal questions have been raised in particular about the NES. As the development of the proposed NES continues (on either timeframe) we will work to address these issues. Legal review of all proposals for NPS and NES content will be undertaken prior to Cabinet consideration to ensure proposals are vires the RMA.

### **Financial, regulatory and legislative implications**

---

42. As noted previously, delivery of the package assumes a successful budget bid. We will continue to work with you through the budget process and on prioritising the work.

## Next Steps

---

43. We understand that you are unable to attend the UGA Ministers meeting on 13 December. We will incorporate your feedback for the discussion at the meeting and we also suggest that you meet with Minister Twyford to discuss the proposals of this briefing in advance of the meeting.
44. Depending on your feedback from this briefing, we will continue to progress work to develop the draft NPS, develop advice on the wider implementation support package (including the NES), consultation materials and a Cabinet paper on the broad urban planning pillar for your consideration in March 2019.
45. We will update you on the progress of this work in early 2019, including on the ways to manage interactions with other urban-related work planned for consultation over a similar timeframe, for example fresh water and air quality.

Released under the Official Information Act 1982

What and why?: A high-level directional instrument that steers the system to ensure plans and council processes provide well for quality intensification to occur.

# Appendix 1: Quality Intensification: proposed content for a National Policy Statement

Where will this apply?: The high-level outcome expectations would apply nationally, but more directive requirements would apply where needed.

**Opportunity:** can build on the National Policy Statement on Urban Development Capacity (NPS-UDC), and, depending on design decisions could contain urban direction in a single instrument that outlines Government's expectations of councils.

What do we want to achieve?	The NPS can achieve this by...	What do we propose?		Next steps
A clear understanding of what quality intensification is and what it should deliver	Setting expectations for what outcomes quality intensification should contribute to	<p>An objective on the high level quality urban outcomes that intensification can help to achieve. This would be designed to operate broadly, across spatial scales (eg, at site, community or regional level) and in different contexts, including decisions about intensification.</p> <p>Defining quality for urban environments (rather than intensification) focuses on good urban outcomes, would support local autonomy and is easily integrated into the NPS-UDC. It could be supplemented by more directive requirements elsewhere in the NPS and NES.</p>	<p>A quality urban environment is responsive to change and supports environmental, economic, social and cultural wellbeing both now and in the future. It also:</p> <ul style="list-style-type: none"> <li>- Provides for choice in housing that meets people's and communities' diverse and different needs</li> <li>- Provides inclusive access and connectivity choices to homes, jobs, education, amenities and services</li> <li>- Is safe and designed in a way that reduces crime and injury, and promotes good health</li> <li>- Supports ecologically sensitive design</li> <li>- Is resilient to the impacts of climate change and other systemic shocks</li> </ul>	<p><b>We seek your comfort with us continuing to develop this quality definition as the high-level direction in the NPS.</b></p> <p>Developing this definition further will require us to work through the implications of the broad scope and how we can make the content practical and meaningful. Early feedback suggests that it will be important to balance the flexibility of this broad approach with clear information about how the definition might apply differently depending on context – for example, for sites versus regions, or in greenfields development as compared to intensification.</p> <p>This can be supported by more directive policies, linked to the definition, being included across the proposed NPS and NES.</p>
Council plans and decisions are well-aligned to help to achieve quality intensification	Ensuring that zoning frameworks support quality intensification	<p>A policy that sets criteria that directs spatial application of higher intensity zones and require councils to provide for these zones unless there is clear evidence that doing so would result in negative outcomes (requirements under s.32).</p> <p>You will have choices about how directive this option is. For example, you could specify particular rules that should not be used when criteria apply.</p>	<p>Direction might look like:</p> <ul style="list-style-type: none"> <li>- [criteria] must/should provide for high density development</li> <li>- [criteria] must/ should provide for medium density development</li> </ul> <p>Criteria could relate to proximity or access to a town/local centre; rapid transit servicing; levels of demand or amenity.</p>	<p><b>Details of policy proposals need to be further developed</b></p> <p>We propose to further investigate opportunities to direct that local authorities must provide for intensification in particular contexts, and work to remove or re-evaluate their rules if they are found to constrain intensification opportunities. This will involve:</p> <ul style="list-style-type: none"> <li>• Developing criteria for directing the spatial application of zones</li> <li>• Developing monitoring requirements, 'trigger points' and thresholds for when rules need review (and investigate the need for tools to understand cumulative effects)</li> <li>• Consideration of including monitoring and enforcement tools.</li> </ul> <p>Consideration of how these requirements would land in different urban areas will be important. What may work or be appropriate in Auckland may not be the same in Hamilton, Tauranga or Whangārei.</p>
A re-set of how amenity is considered in an urban context	Further defining amenity	<p>Amenity and its definition is a key mechanism used by people to protect the status quo. An objective could provide for councils to re-consider how they factor in amenity as part of the planning (and subsequent resource consenting) process.</p>	<p>Direction might require that:</p> <ul style="list-style-type: none"> <li>- Zones in plans provide clear outcomes statements about the future intended state for an area, supported by relevant objectives, policies, rules and assessment criteria.</li> <li>- Resource consenting processes reflect this future intended state.</li> </ul> <p>The direction might require that territorial authorities:</p> <ul style="list-style-type: none"> <li>- consider the cumulative impact of rules on the delivery of intensification envisioned by the intended future state</li> <li>- report on the performance of rules as part of s35 reporting obligations</li> <li>- remove or re-evaluate rules if they are found to constrain development sector activity (potentially based on "trigger" points).</li> </ul>	<p>Setting policies of these kinds through the NPS will require central government investment in monitoring. Any future advice on this approach will need to identify how this might happen and the potential costs of the approach.</p>
More responsive planning processes	Direct councils on how to balance what they are responsive to	<p>This would encourage better, responsive planning by introducing policy and process requirements that help to weight broad community engagement, supporting better representation of future needs in the planning process. This would be reinforced by requirements that information not currently used directly in planning be gathered as part of the planning process.</p>	<p>This objective might require that councils ensure that higher density environments are supported by investment in public infrastructure and services.</p> <p>This could be done by refining definitions and clarifying how they might apply in an urban context. Options being explored include explicit recognition of amenity as a value that changes over time; recognising a difference between amenity for individuals and communities; or clearly defining attributes to be considered.</p> <p>Two potential changes:</p> <ul style="list-style-type: none"> <li>- processes involving wide community engagement (eg, meeting certain criteria) would be given weight in Schedule 1 consultation requirements</li> <li>- information used in Housing and Business Development Capacity Assessments and other strategies is gathered in planning.</li> </ul>	<p><b>We will continue to investigate the feasibility of re-defining amenity in an urban context.</b></p> <p>Initial feedback on this work suggests that this option could deliver useful changes for local authorities, particularly to support them to focus on the future desired amenity of an area. However, feasibility is substantially dependent on legal advice, as the degree of change possible through this mechanism may be limited by legislative settings.</p>

# Appendix 2: Quality Intensification: proposed content for a National Environmental Standard

## Purpose:

to incentivise quality intensification through providing a more predictable and less risky approach to consenting for qualifying 'quality' developments.

## Proposed approach:

Consists of three stages, each of which is described in more detail below.

1. Only particular types of development would qualify

2. Qualifying developments must only comply with core rules and show they have addressed quality outcomes

3. Application processed as non-notified restricted discretionary activity with supporting assessment criteria

Where will this apply?: This could apply across New Zealand wherever the qualifying criteria are met, or it could be targeted to particular local authorities. There are advantages and disadvantages to both and we will provide you with further analysis in 2019.

## 1. What developments would qualify?

### Proposal:

We propose to apply a broad qualification step with very clear parameters.

This will ensure this process is available for more developments while signalling what kinds of intensification should be prioritised.

### In practice:

Would apply for developments:

- in particular locations and
- of a particular typology, capacity, or size.

### Choices:

The location could focus either on:

- geographically specific criteria (eg distance from a particular service or amenity or using a specified map)

or

- be based on existing zones.

There is a range of choices for criteria addressing **typology / capacity / size**. For instance: multi-unit or attached dwellings; if a development provides for dwellings over a minimum number, or if developments maximise site capacity.

### Next steps:

- investigate what kind of qualifying rules may be most effective and how these could be identified
- in developing qualification rules it will be important to balance the advantage of a broad gate as against sector capacity
- understand the impact of particular criteria for different locations.

## We seek your direction as to how work on this instrument should progress.

Early engagement with Auckland Council and sector experts has confirmed there are a lot of technical and legal issues to work through, and that the impacts of the proposal are uncertain. We recommend progressing this work on a longer timeframe as part of a wider package of implementation support for the urban planning pillar. Please advise if you have any concerns or suggestions about the direction proposed.

## 3. How would the consent be granted?

### Proposal:

Councils would process the resource consent application as a non-notified restricted discretionary activity. This means that council would retain the ability to assess the application against a restricted list of matters of discretion and could choose to not grant the consent if insufficient information is provided in the application (Note that this is rare). The matters of discretion would be set out in clear 'assessment criteria' supported by direction on design responses. The assessment criteria could be based on the outcomes in the NPS for quality, translated to a site scale. Supporting the assessment criteria with examples of design responses to the matters of assessment ensures predictability in how the criteria are applied, provides examples to developers of what quality looks like, while still allowing for flexible and innovative solutions.

## 2. What core rules would a development comply with?

### Proposal:

We propose that all developments would need to comply with a core set of rules that manage the external effects of development on neighbouring sites. **All other rules would no longer apply** (eg, density, minimum carparks and outlook space), however the outcomes these rules seek to address may be considered through flexible 'assessment criteria'.

### In practice:

Taken from the relevant zones in council plans, the core rules to comply with could include:

- height in relation to boundary
- yard control
- impervious area (for stormwater)
- building height

### Choices:

How to build flexibility into the core rules. For example, the height rule could allow for flexibility of 20%.

### Next steps:

- identifying and further testing whether the core rules are the right ones
- identifying the impact of only having core rules in a range of urban areas.

### In practice:

Matters of assessment could relate to for example:

- privacy
- safety
- landscaping
- infrastructure and servicing
- carparking

Design responses will provide examples of how you can address the criteria.

### Choices:

The extent that the assessment criteria are directive or flexible.

### Next steps:

- working through the extent to which rules and assessment criteria can provide for quality outcomes
- identifying the range of appropriate assessment criteria and how to frame them so that they provide a predictable, but flexible approach to assessment
- developing example design solutions for consultation

## A worked example

### 1. Qualification

A developer has a parcel of land that they want to develop. It is 400m from a local town centre and has a regular public transit service. This qualifies the development to use the NES process.

### 2. Core rules

The proposed development is within the Terrace Housing and Apartment Building zone in Auckland. This means that the development only has to comply with the following standards relating to external effects to the site:

- height in relation to boundary – 45 degree recession plane measured from 3m vertically above ground
- 1.5m front yard 1m side and rear yards
- impervious area must not exceed 70 % of site area
- 16.5m building height (breaches height rule by half a metre, but within 20% variance)

Applicants are encouraged to have a pre-application meeting with Council to understand issues related to assessment criteria and how the development will be assessed against the criteria.

### 3. Assessment for consent

The application is lodged with Council and processed as a non-notified restricted discretionary activity. The Council planner will:

- assess the application against the core rules (eg, yes or no), and
- consider how the development addresses the matters for assessment using the design solutions guidance as a starting point (eg, how has the development provided for privacy?)

Provided the quality of information in the consent application is sufficient (which will be informed by the example design responses), the consent should be granted. Conditions could be imposed if required to manage effects and ensure quality.



## Housing and Business Assessment Policies for consultation as part of National Policy Statement on Urban Development



Date Submitted:	1 August 2019	Tracking #: 2019-B-05854 HUD tracking #: BRF19/20070372
Security Level	In Confidence	MfE Priority: Urgent

	<b>Action sought:</b>	<b>Response by:</b>
To Hon Phil Twyford, Minister for Urban Development	Agree to release proposed policies for consultation	Before meeting officials on Monday 5 August
To Hon David Parker, Minister for the Environment		

Actions for Minister's Office Staff	Return the signed brief to MfE and HUD.
Number of appendices: 1	Title of appendices: <i>Planning for successful cities: a discussion document on the proposed national policy statement on urban development – addendum on policies for housing and business development capacity assessments</i>

### Ministry for the Environment contacts

Position	Name	Cell phone	1 <sup>st</sup> contact
Principal Author	Nicholas Smith	§ 9(2)(a)	
MfE Responsible Manager	Liz Moncrieff	022 048 2314	✓
HUD Responsible Manager	Caleb Johnstone	§ 9(2)(a)	✓

1. This briefing provides you with a final draft of the housing and business assessment (HBA) policies, for discussion with officials prior to your sign out for public consultation.
2. The proposed policies ensure there is a robust evidence base about housing and business land to ensure urban planning decisions are responsive to growth.
3. These policies modify the HBA requirements in the National Policy Statement on Urban Development Capacity (NPS-UDC), based on the first HBAs prepared by councils and their feedback on preparing these.
4. As previously advised (refer 2019-B-05810), the HBA policies will be released in mid-August as an addendum to the National Policy Statement on Urban Development (NPS-UD) discussion document. Cabinet Committee agreed that the Ministries for the Environment and of Housing and Urban Development could release the HBA addendum.
5. The HBA is core to the NPS-UD and ensures council planning decisions are informed by the demand and supply for housing and business land. For councils to make meaningful submissions on the NPS-UD, the HBA policies need to be released at or around the same time as the NPS-UD discussion document.
6. The addendum is consistent with the HBA policy you reviewed as part of previous versions

of the discussion document. We have used an addendum as we needed more time to work through the detailed technical aspects of the policy ahead of consultation. As it has turned out, both processes are now being undertaken in similar time frames. We are working on minor edits to ensure the policy proposals meet your expectations for national direction instruments.

### **The first HBAs demonstrated their value, but there are issues to address**

7. Most councils told us that their first HBA provided useful insights for planning. In addition, councils believe subsequent updates to their HBA would be easier than starting anew.
8. Nevertheless, the first HBAs highlighted concerns for both government and councils, as expressed in the recent Local Government New Zealand report on the NPS-UDC. The key concerns are:
  - high cost and complexity
  - underestimating the supply of feasible development opportunities needed to bring down prices
  - insufficient analysis about the supply of diverse housing, especially housing for low income households in a range of locations.
  - debate about specific calculation methods.

### **The proposed policies build on the gains from the first HBAs while addressing the concerns**

9. The HBA requirements in the current NPS-UDC are proposed to be amended in the following ways:
  - only major urban centres are required to produce an HBA to ensure policies are targeted where benefits are greatest
  - scenarios for housing and business land demand are required to recognise uncertainty over time
  - allowing more flexibility to estimate development capacity over the long term
  - adding margins to total demand to ensure councils provide plenty of development capacity to support competitive land markets
  - requiring councils to factor in take up of supply, using past development patterns as a starting point
  - a need to use price efficiency indicators, such as rural/urban price differentials, to analyse the overall impact of supply on house prices
  - a requirement to analyse the impact of planning on the demands of different household incomes by location, type and price.

### **Next steps**

10. We propose to discuss the attached addendum at our next regular officials meeting on Monday 5 August.
11. Subject to any further changes required, we will release the addendum for public consultation soon after 12 August 2019 as part the NPS-UD discussion document.

## Recommendations

---

12. We recommend you:

- a. **Note** officials want to discuss the HBA addendum with you at your next weekly officials meeting on Monday 5 August.
- b. **Agree** MfE and HUD release the HBA addendum as part of the NPS-UD discussion document, subject to any changes you wish to make.
- c. **Agree** officials can make minor editorial changes for release.

Yes/No

Yes/No

## Signature

---



Liz Moncrieff  
**Manager – Natural and Built Systems  
Ministry for the Environment**



Caleb Johnstone  
**Manager – Market and Supply Responses  
Ministry of Housing & Urban Development**

Hon David Parker  
**Minister for the Environment**

Hon Phil Twyford  
**Minister for Urban Development**

Date

Date

Released under the Official Information Act 1982



## Briefing

Interactions between the NPS-UD and the NPS-HPL			
<b>Date:</b>	23 April 2020	<b>Security level:</b>	In Confidence
<b>Priority:</b>	Medium	<b>Report number:</b>	BRF19/20040617 (HUD) 2020-B-06656 (MfE) B20-0212 (MPI)

Action sought		
	Action sought	Deadline
Hon Phil Twyford <b>Minister for Urban Development</b>	Meet with officials to discuss and provide direction on the interactions between the NPS-UD and the NPS-HPL	29 April 2020
Hon David Parker <b>Minister for the Environment</b>		
Hon Damien O'Connor <b>Minister of Agriculture</b>		

Contact for discussion			
Name	Position	Telephone	1 <sup>st</sup> contact
Caleb Johnstone	Manager, Market and Supply Responses (HUD)	s 9(2)(a)	✓
Liz Moncrieff	Manager, Urban and Infrastructure (MfE)	022 048 2314	✓
Kay Baxter	Manager, Land Policy (MPI)	s 9(2)(a)	✓
Stephen Walter	Director, Natural and Built Systems (MfE)	022 517 0081	
Matthew Barbati-Ross	Manager, Sustainable Land Stewardship (MfE)	022 010 2147	✓
Harry Harknett	Policy Advisor, Market and Supply Responses (HUD)	s 9(2)(a)	

Other agencies consulted
The Treasury, Department of Internal Affairs, Ministry of Transport

### Minister's office to complete

- Noted
- Seen
- Approved
- Needs change
- Not seen by Minister
- Overtaken by events
- Declined
- Referred to (specify)

### Comments

Date returned to MHUD / MfE / MPI:



# Briefing

## Interactions between the NPS-UD and the NPS-HPL

**For:** Hon Phil Twyford, Minister for Urban Development  
Hon David Parker, Minister for the Environment  
Hon Damien O'Connor, Minister of Agriculture

**Date:** 23 April 2020

**Security level:** In Confidence

**Priority:** Medium

**Report number:** BRF19/20040617 (HUD)  
2020-B-06656 (MfE)  
B20-0212 (MPI)

### Purpose

- S 9(2)(f)(iv) [Redacted]

### Recommended actions

- The Ministry of Housing and Urban Development (HUD), Ministry for the Environment (MfE) and Ministry for Primary Industries (MPI) recommend that you:

	Min Twyford	Min Parker	Min O'Connor
1. <b>Note</b> that Ministers Parker, Twyford and O'Connor are scheduled to meet to discuss the interactions between the NPS-UD and NPS-HPL on Wednesday 29 April at 3:15pm	<i>Noted</i>	<i>Noted</i>	<i>Noted</i>
2. S 9(2)(f)(iv) [Redacted]	<i>Agree / Disagree</i>	<i>Agree / Disagree</i>	<i>Agree / Disagree</i>

3. **Note** other interactions between the NPS-UD and the NPS-HPL that officials are continuing to work through.

Noted

Noted

Noted



---

Caleb Johnstone  
**Manager, Market and Supply Responses (HUD)**

23 / 04 / 2020

---

Hon Phil Twyford  
**Minister for Urban Development**

..... / ..... / .....



---

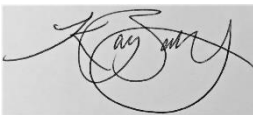
Liz Moncrieff  
**Manager, Urban and Infrastructure (MFE)**

23 / 04 / 2020

---

Hon David Parker  
**Minister for the Environment**

..... / ..... / .....



---

Kay Baxter  
**Manager, Land Policy (MPI)**

23 / 04 / 2020

---

Hon Damien O'Connor  
**Minister of Agriculture**

..... / ..... / .....



---

Stephen Walter  
**Director, Natural and Built Systems (MfE)**

23 / 04 / 2020



---

Matthew Barbati-Ross  
**Manager, Sustainable Land Stewardship (MfE)**

23 / 04 / 2020

Released under the Official Information Act 1982

## Background

3. In August 2019, Cabinet agreed to consult on multiple national direction instruments under the *Resource Management Act 1991* (RMA). These included the NPS-UD (jointly led by Ministers Twyford and Parker) and the NPS-HPL (jointly led by Ministers O'Connor and Parker).
4. Consultation for both closed in October 2019 and officials have continued to develop the national instruments, working closely to identify and manage their interactions.
5. Both national policy statements (NPSs) are intended to be presented to Cabinet for decisions in June 2020, although this is dependent on government priorities.
6. The government is also progressing several growth and spatial planning partnerships with major urban centres, which have identified strategic growth areas over the short, medium and long terms.

### **The NPS-UD and NPS-HPL provide direction on two different nationally significant resource management issues...**

7. Both national policy statements are an appropriate response and consistent with the purpose of the RMA to provide clear direction to local authorities on two different nationally significant resource management issues.

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

8. The proposed NPS-UD forms part of the Urban Growth Agenda and will replace the National Policy Statement on Urban Development Capacity 2016. The NPS-UD seeks to:
  - a. improve the responsiveness and competitiveness of the land and development markets
  - b. add a focus on outcomes of decisions, seeking particularly well-functioning urban environments that meet the needs of our diverse communities
  - c. improve the quantity and quality of evidence used by decision makers in planning decisions
  - d. further increase development capacity, including consideration of what is likely to be taken up
  - e. protect areas of significance.
9. As part of this, the NPS-UD will enable growth, both up and out, by requiring councils to provide development capacity to meet the diverse demands of communities, address overly restrictive rules, and encourage well-functioning, liveable urban environments. This will help ensure planning that is strategic and responsive to demand and help enable well-connected growth, in turn leading to improved mobility and more dynamic land use. This includes enabling an oversupply of capacity and growth to occur where there is demand.

S 9(2)(f)(iv)

Released under the Official Information Act 1982

Released under the Official Information Act 1982

Released under the Official Information Act 1982

## **Annexes**

---

Annex One: Slide deck on interactions between the NPS-HPL, NPS-UD and Spatial Planning Partnerships

**Annex A: Slide deck on interactions between the NPS-HPL, NPS-UD and Spatial Planning Partnerships**

---

Released under the Official Information Act 1982



MINISTRY OF HOUSING  
AND URBAN DEVELOPMENT



Ministry for the  
**Environment**  
*Manatū Mō Te Taiao*

Ministry for Primary Industries  
Manatū Ahu Matua



# Interactions between the NPS- HPL, NPS-UD and Spatial Planning Partnerships

22 April 2020

Released under the Official Information Act 1982

# Each National Policy Statement (NPS) has separate objectives

National Policy Statement on Urban Development (NPS-UD)	National Policy Statement on Highly Productive Land (NPS-HPL)
<ul style="list-style-type: none"> <li>• improve the responsiveness and competitiveness of the land and development markets</li> <li>• achieve well-functioning urban environments that meet the needs of our diverse communities</li> <li>• improve the quantity and quality of evidence used in planning decisions</li> <li>• further increase development capacity</li> <li>• protect areas of significance</li> </ul>	<p>S 9(2)(f)(iv)</p>

The government is also progressing a number of spatial planning partnerships with major urban centres, which have identified growth areas over the short, medium and long term.

Released under the Official Information Act 1982

Released under the Official Information Act 1982

Released under the Official Information Act 1982

Released under the Official Information Act 1982

Released under the Official Information Act 1982

Released under the Official Information Act 1982

Released under the Official Information Act 1982

Released under the Official Information Act 1982



## Aide-memoire

<b>Updated Cabinet Paper on NPS UD post ministerial consultation</b>			
<b>Date:</b>	28 May 2020	<b>Security level:</b>	In Confidence
<b>Priority:</b>	Medium	<b>Report number:</b>	AMI19/20050321 / 2020-B-06799

<b>Information for Minister</b>	
Hon Phil Twyford <b>Minister for Urban Development</b>	Receive updated Cabinet paper and supporting material
Hon David Parker <b>Minister for the Environment</b>	Receive updated Cabinet paper and supporting material

<b>Contact for discussion</b>			
Name	Position	Telephone	1 <sup>st</sup> contact
Caleb Johnstone	Manager, Market and Supply Responses	s 9(2)(a)	✓
Liz Moncrieff	Manager, Natural and Built Systems (MfE)	022 048 2314	✓
David Shamy	Principal Policy Advisor	s 9(2)(a)	

<b>Other agencies consulted</b>
Ministry for the Environment

### Minister's office to complete

- Noted
- Seen
- See Minister's notes
- Needs change
- Overtaken by events
- Declined
- Referred to (specify)

### Comments

Date returned to MHUD:



# Aide-memoire

## Updated Cabinet Paper on NPS UD post ministerial consultation

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

**Date:** 28 May 2020

**Security level:** In Confidence

**Priority:** Medium

**Report number:** AMI19/20050321 / 2020-B-06799

### Purpose

1. This Aide Memoire provides an updated Cabinet paper on the National Policy Statement on Urban Development (NPS UD) and supporting documents for lodging, following ministerial consultation, subsequent feedback from officials and further analysis on the targeting of Queenstown and the responsiveness policy.

### Feedback through ministerial consultation

2. You received some feedback and proposed amendments to the NPS UD provided through ministerial consultation. This feedback can be summarised as proposed amendments to the NPS UD to provide better clarity and ensure that urban environments maintain and protect, where possible, access to healthy natural environments.
3. This has not required changes to the Cabinet paper and can be addressed through a small number of technical changes to the NPS UD policy. Changes will include:
  - Amending wording to Policy 1 to make clearer the requirement to support access to natural and open space in planning decisions
  - Amending wording to Policy 6 to recognise change to urban environments can increase housing density and provide varied typology
  - Amending wording to Policy 8 for better clarity
  - Amended definition of active transport to include transport using a mobility aid such as a wheelchair.
4. The Cabinet paper recommends that you have delegated authority to make minor and technical changes to the NPS UD prior to gazettal. Therefore, the amendments listed above and other minor technical amendments will be made following lodging of the Cabinet paper.

#### *Minor amendment to the Cabinet paper based on Office for Disability and Office for Seniors feedback*

5. The Cabinet paper has been amended based on suggested wording from the Office for Disability to better reflect that urban environments are places where disabled people can fully participate and interact with and move about with ease and dignity. We have also amended the paper to recognise that well-functioning environments, as defined in the NPS-UD, will support the Age-friendly work programme, on the suggestion the Office for Seniors.

#### *Regulatory Impact Assessment (RIA) meets quality assurance criteria*

6. The Cabinet paper has also been updated to reflect the review panel's assessment that the RIA meets the quality assurance criteria.

## Further analysis by officials

7. Officials have discussed two issues with Minister Twyford that needed to be resolved prior to the Cabinet paper being confirmed. These were what tier would be appropriate for Queenstown and to further test the responsiveness policy.

### *Confirmation of Queenstown as Tier 2*

8. Officials have undertaken further consideration of the targeting of Queenstown in the NPS UD. The Cabinet paper and NPS UD policy has been amended to confirm original advice provided by officials on 25 March [BRF19/20020558 and 2020-B-06469] that it be Tier 2.
9. While Queenstown has experienced a high rate of growth, its relative size (both population and scale of urban area), unique drivers of growth and environment make it more appropriate for Tier 2. While their housing pressures are significant, these are driven by different factors from those experienced by Tier 1 councils, such as the holiday home market, prevalence of short-stay rentals (e.g. AirBnB) and a more transient tourism workforce. The role of Queenstown's surrounding natural landscape in supporting the tourism economy also impacts their options in terms of managing growth. Tier 2 status provides more flexibility to navigate these factors. This will approach will supported through Government's growth partnership in this area.

### *Responsiveness policy has been tested and is considered appropriate*

10. We have tested the policy to ensure it enables consideration of factors that may impact on areas that make a unique and significant contribution to New Zealand's economy. We consider the policy currently allows for these considerations – and encourages robust consideration of evidence.
11. We have identified a technical change to the NPS UD to make clearer that 'significant development capacity' should be determined by local authorities by transparent and reasonable criteria. This will avoid particular regard being given to minor plan changes and ensure that local authorities transparently signal the factors of consideration to the development community.
12. Guidance will be provided on this policy, including on setting criteria, for example how local authorities should factor in scale and speed of development to determine significance. We will also signal that monitoring of this criteria will be undertaken to ensure alignment with the overall intent of the NPS UD (avoiding unreasonable barriers to consideration).

## Next Steps

13. You are taking this Cabinet paper to the Cabinet Economic Development Committee on 3 June. Officials will continue to make minor technical changes to the NPS UD signalled in this paper prior to Gazettal.
14. In accordance with good practice under the RMA, you will need to sign recommendations in the attached briefing [BRF19/20020558 and 2020-B-06469] acknowledging that you have:
  - considered the recommendations reports made under section 52(1)(a) of the RMA
  - have had particular regard to the evaluation report made in accordance with section 32 of the RMA
  - agree that the NPS-UD meets the requirement of section 45(1) in that it assists in achieving the purpose of the RMA.
15. Once technical and minor amendments have been made, a final recommendations and decisions report will be provided to you for approval. This will be made public following gazettal of the NPS UD.

**Annexes** The four annexes have not been released as their final versions are available on the Ministry for the Environment website

- Updated Cabinet Paper (clean) and Updated Cabinet Paper (tracked changes)
- Draft NPS UD policy
- Regulatory Impact Assessment
- National Policy Statement on Urban Development: Policy Recommendations Package briefing BRF19/20020558 and 2020-B-06469.

Released under the Official Information Act 1982



## Talking points: National Policy Statement on Urban Development

Date Submitted:	2 June 2020	Ministry for the Environment #: 2020-B-06831 Housing and Urban Development #: AMI19/20060325	
Security Level	In Confidence	MfE Priority:	Medium

	<b>Action sought:</b>	<b>Response by:</b>
Hon David Parker, Minister for the Environment	For information	3 June 2020
Hon Phil Twyford, Minister for Housing and Urban Development		

Number of appendices and attachments #3	Titles of appendices and attachments (ie separate attached documents): 1. Joint talking points for Minister Twyford and Minister Parker 2. Additional talking points for Minister Parker 3. Tiers that apply to the NPS-UD
--	---

### Ministry for the Environment contacts

Position	Name	Cell phone	1 <sup>st</sup> contact
Principal Author (MfE)	Daisy Till-Carty	021 082 599 68	
Manager, Natural and Built Systems (MfE)	Liz Moncrieff	022 048 2314	✓
Manager, Market and Supply Responses (HUD)	Caleb Johnstone	§ 9(2)(a)	✓

Released under the Official Information Act 1982

## Talking points: National Policy Statement on Urban Development

### Key Messages

1. You are taking the Cabinet paper: *National Policy Statement on Urban Development* to the Cabinet Economic Development Committee on 3 June 2020. This paper provides you with supporting talking points for that discussion.
2. Annex 1 provides joint talking points for Minister Twyford and Minister Parker, and Annex 2 provides some additional talking points for Minister Parker.

### Signature

---

This briefing has been electronically approved by Liz Moncrieff 2/06/2020  
Manager  
**Urban and Infrastructure Policy (Ministry for the Environment)**



This briefing has been electronically approved by Caleb Johnstone 2/06/2020  
Manager  
**Market and Supply Responses (Ministry for Housing and Urban Development)**

Hon David Parker  
**Minister for the Environment**

Date

Hon Phil Twyford  
**Minister for Urban Development**

Date

## Appendices

Appendix 1: Joint talking points for Minister Twyford and Minister Parker

Appendix 2: Additional talking points for Minister Parker

Appendix 3: Tiers that apply to the NPS-UD

Released under the Official Information Act 1982

## Appendix 1: Joint talking points for Minister Twyford and Minister Parker

### Key talking points

- We have a housing crisis in New Zealand, made worse by constraints in the planning system that don't allow enough people to build homes and live where they want to – close to jobs, community services, public transport, and other amenities our communities enjoy.
- The Government consulted on proposals for a National Policy Statement on Urban Development (NPS-UD) last year, and this paper proposes some changes based on submitter feedback, and seeks Cabinet's agreement to proceed with the gazettal of the NPS-UD.
- The NPS-UD will replace the National Policy Statement on Urban Development Capacity (NPS-UDC) established in 2016.
- The NPS-UD will require a minimum number of homes to be provided for in local authority Resource Management Act (RMA) plans and will remove constraints that prevent housing from being built.
- For example, the NPS-UD removes barriers to intensification where there are the greatest benefits – in places with good transport links, jobs and education, so that more people can enjoy amenities we invest in.
- Our proposals also allow for local authorities to be more responsive to new development opportunities even when they are out-of-sequence or unanticipated, so long as the opportunity adds significantly to development capacity, is well connected and contributes to well-functioning urban environments.
- Other direction like the removal of car parking minima in plans will make development easier and allows developers to decide what their customers need.
- We are confident that the combination of the NPS-UD policies will ultimately contribute to the Government's Urban Growth Agenda (UGA) goal of transforming of our housing market by providing more housing and improving housing affordability; ultimately ensuring everyone has a warm and dry home.
- The NPS-UD is also an important tool in the recovery from COVID-19. We know development has a lag time, so what we do now will make it easier for the building and development sector to build momentum and resilience into the future. Policy direction now will help remove barriers to development in the medium term as markets begin to recover.

## **Additional information if required**

### **COVID-19 context**

- The NPS-UD can be seen as part of the wider government response to rebuilding momentum to manage the impacts of COVID-19.
- We will provide for the construction of a range of housing typologies in a range of locations to meet the diverse housing needs of New Zealanders; improving the urban development sector outcomes over the coming months and years.
- Cabinet also recently approved changes to the RMA that will enable faster consenting of development and infrastructure projects.
- The NPS-UD will work alongside the fast-tracking RMA legislation and will complement the larger-scale projects by enabling growth in addition to and in areas surrounding these projects.

### **More development capacity to meet demand for different housing types**

- The NPS-UD requires local authorities to assess and identify demand for different types of housing (both stand alone and attached, including townhouses and apartments) and enable at least enough development capacity to meet this demand.
- A key change from the NPS-UDC is that the NPS-UD requires this development capacity to be reasonably expected to be realised. This means development capacity enabled through the NPS-UD will better match the reality of the market.

### **The NPS-UD will make it easier to build in areas of high demand**

- In many of our cities, local authorities have rules that undermine the ability to provide housing in areas of high demand. The NPS-UD will direct Tier 1 councils (in the Auckland, Tauranga, Hamilton, Wellington and Christchurch urban areas) to enable higher levels of development around rapid transit stops, and in and around city centre and metropolitan centre zones.
- In other areas, local authorities must ensure they enable greater density in areas well connected to public transport, commercial activity, and community services.

### **The NPS-UD emphasises well-functioning urban environments**

- The NPS-UD provides direction to make sure development capacity is provided in places with good access.
- This is emphasised through the well-functioning urban environments policy which requires planning decisions to contribute to urban environments that have good accessibility for all people (to housing, jobs, and community services).
- This policy requires that planning decisions enable a variety of homes that meet the needs, in terms of type, price, and location, of different households

### **The NPS-UD requires planning to be responsive to development opportunities**

- The NPS-UD provides direction that encourages local authorities to be more responsive to development opportunities as they arise, even when they are out-of-sequence in their plans. This will make it easier for developments to occur.

## **Questions and answers**

### **Is the NPS-UD imposing unnecessary additional costs when Councils are already facing cost pressures due to COVID-19?**

- The NPS-UD will help remove barriers to development now and will make it easier to build as the development, building and construction markets begin to recover.
- We propose a three-tiered targeting approach that targets the most directive policies to the largest and fastest growing urban centres, and to minimise the resource constraints on small authorities – see Appendix 3 for details of tiers .
- To help manage council resource pressure, the NPS-UD also has staggered timeframes for the implementation of the most directive policies into resource management plans to mitigate the risk that the new requirements will burden local authorities. Officials are also working to stage guidance to help with implementation and reduce costs for local government.

### **Is the NPS-UD just creating urban sprawl?**

- The NPS-UD encourages responsiveness to development opportunities.
- Where this development occurs (including in greenfield areas), the direction provided by the NPS-UD is that it should add significant development capacity, be along transport corridors and contribute to well-functioning urban environments.

### **Is the NPS-UD forcing people to build upwards when they don't want to?**

- The NPS-UD is aimed at enabling the development market, so that people can build housing of different typologies and in different locations to suit their diverse needs.
- There is no requirement under the NPS-UD to for people or developers to build upwards; rather, it is enabling this to happen when the demand exists.

### **Does the NPS-UD have more onerous requirements on individual developments with regard to climate change mitigation?**

- The climate change policy is targeted at the macro scale of urban environments supporting reductions to greenhouse gas emissions rather than individual development.
- Acknowledging climate change was a key piece of feedback from our submission and engagement period.
- The NPS-UD does not add any requirements to what is already in the RMA regarding having particular regard to the effects of climate change (adaptation) or with what is proposed in the Resource Management Amendment Bill regarding mitigation of the impacts of climate change. Other policies in the NPS-UD have climate change co-benefits such as a requirement on local authorities to provide opportunities for intensification near existing centres and public transport routes.

### **Does the NPS-UD extend existing requirements around engagement with Maori?**

- The NPS-UD does not introduce additional requirements around engagement with Maori. It assists local authorities to fulfil their existing obligations by clearly articulating existing requirements in the RMA for engaging with Maori and articulates the Treaty principles in the context of decision making on urban environments.

**How does the NPS-UD interact with other National Direction under the RMA?**

- Four other areas of national direction are being developed (freshwater management, highly productive land, indigenous biodiversity, air quality), which could require local authorities to achieve multiple objectives.
- Officials have worked to reduce tensions between the proposed NPS-UD and other national direction, however interactions and overlaps still exist. 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.

Released under the Official Information Act 1982

## Appendix 2: Additional talking points for Minister Parker

### National Direction Stewardship

- As Minister for the Environment, I have a decision-making responsibility to give effect to the purpose and principles (Part 2) of the RMA to achieve the sustainable management of the environment.
- The NPS-UD achieves Part 2 of the RMA by enabling people and communities to provide for their social, economic and cultural well-being by providing space for housing and business uses in urban environments, while sustaining the potential of natural and physical resources and their life supporting capacity, and avoiding remedying, or mitigating any adverse effects on the environment.
- I am comfortable that the NPS-UD will provide more effective mechanisms than NPS-UDC for councils to ensure that they have enough development capacity provided for in their plans, and that we are sending clear direction to councils to provide for more intensification of urban areas. This, combined with other mechanisms to cut through the planning red tape that supports land bankers to hold onto land – keeping land prices high, will help to bring down the cost of land for future housing and land development.

Released under the Official Information Act 1982

### Appendix 3: Tiers that apply to the NPS-UD

Tier 1	Policies that apply
<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>
<p><b>Tier 2</b></p> <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> <li>• Queenstown-Lakes District Council, Otago Regional Council</li> </ul>	<p><b>Policies that apply</b></p> <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>
<p><b>Tier 3</b></p> <p>All urban environments: population greater than 10,000</p>	<p><b>Policies that apply</b></p> <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>

Released under the Official Information Act 1982



## Briefing

<b>National Policy Statement on Urban Development: ensuring effective implementation and continued compliance</b>			
<b>Date:</b>	4 June 2020	<b>Security level:</b>	In Confidence
<b>Priority:</b>	Medium	<b>Report number:</b>	BRF19/20050664 2020-B-06838

Action sought	
	<b>Action sought</b>
Hon Phil Twyford <b>Minister for Urban Development</b>	<b>Agree to the proposed implementation approach for the National Policy Statement on Urban Development</b>
Hon David Parker <b>Minister for the Environment</b>	

Contact for discussion			
Name	Position	Telephone	1 <sup>st</sup> contact
Caroline Reid	Manager, Place-Based Outcomes, HUD	s 9(2)(a)	✓
Jym Clark	Acting Manager, Natural & Built Systems, MfE	022 517 0088	
Mandy Stratford	Policy Advisor, Place-Based Outcomes, HUD	s 9(2)(a)	

Other agencies consulted
Te Arawhiti Treasury Te Puni Kōkiri Department of Internal Affairs Ministry of Transport

### Minister's office to complete

- Noted
- Seen
- Approved
- Needs change
- Not seen by Minister
- Overtaken by events
- Declined
- Referred to (specify)

### Comments

Date returned to MHUD:

# Briefing

## National Policy Statement on Urban Development: ensuring effective implementation and continued compliance

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

**Date:** 4 June 2020

**Security level:** In Confidence

**Priority:** Medium

**Report number:** BRF19/20050664

### Purpose

1. To provide an overview of how the Ministry for the Environment (MfE) and the Ministry for Housing and Urban Development (HUD) will ensure the effective implementation of the National Policy Statement on Urban Development (NPS-UD).

### Recommended actions

2. It is recommended that you:

- a) **Note** that councils will require support to effectively implement the NPS-UD *Noted*
- b) **Note** that the NPS-UD can help mitigate the impacts of COVID-19 on the construction sector by enabling more capacity *Noted*
- c) **Agree** that we progress with an implementation approach that focuses on the four essential areas of guidance, cross-agency collaboration, monitoring and evaluation, and compliance and enforcement *Agree*
- d) **Note** that funding has been provided in the 2019 budget for implementation support, and the project has been scoped in alignment with this funding. *Noted*



Caroline Reid  
Manager, Place-Based Outcomes  
(Ministry of Housing and Urban  
Development)

4 June 2020

Hon Phil Twyford  
Minister for Urban Development

..... / ..... / .....



Jym Clark  
Acting Manager, Natural and Built  
Systems (Ministry for the Environment)

4 / 6 / 2020

Hon David Parker  
Minister for the Environment

..... / ..... / .....

## **The NPS-UD places a range of new requirements on councils, which will require implementation support**

---

3. The proposed National Policy Statement on Urban Development (NPS-UD) will provide national direction on urban planning under the Resource Management Act 1991 (RMA). It will replace the National Policy Statement on Urban Development Capacity 2016 (NPS-UDC), updating and expanding on many of its requirements and objectives.
4. The new NPS-UD forms part of the Urban Growth Agenda (UGA), which aims to address the fundamentals of land supply, development capacity, and infrastructure provision to create the conditions for the market to respond to growth and bring down the high costs of urban land. The NPS-UD will enable growth, both up and out, and help ensure planning that is strategic and responsive to demand and enables well-connected growth. This will, in turn, lead to improved transport mobility and more dynamic land use.
5. The NPS-UD can also form an important part of a wider government response to rebuilding momentum in the construction sector to help manage the impacts of COVID-19. The residential construction sector is particularly vulnerable to economic downturns, regardless of underlying demand. There is a risk that house-building activity could decline as seen in the global financial crisis (GFC). It took close to ten years post-GFC for the sector to get close to building enough houses towards matching underlying demand. The NPS-UD will play an important role by requiring councils to enable more capacity and remove constraints to urban development to both support the residential sector's resilience and support improved housing affordability.
6. The NPS-UD is also intended to better articulate the role that Māori communities have in shaping the future state of the urban environment. It provides direction to councils to understand and take into account Māori values and aspirations for urban development, in particular those of tangata whenua, in accordance with existing requirements of the Resource Management Act 1991.
7. The Ministry of Housing and Urban Development (HUD) and the Ministry for the Environment (MfE) are jointly responsible for the effective implementation of the NPS-UD.
8. Final recommendations for the NPS-UD are due to be agreed by Cabinet in early June 2020. If agreed, the Minister for the Environment will recommend that the policy statement be approved by Order in Council, and subsequently gazetted and tabled in the House in July 2020. The policy statement will come into effect up to 28 days after gazettal. Initial guidance will be released at the same time as gazettal.

### **Councils are required to implement three key groups of policies**

9. Under the NPS-UD, councils are required to implement a range of policies. These fall into three categories.
  - The 'regulatory responses' – specified changes to policy that councils need to make that will assist with delivering well-functioning urban environments.
  - The 'evidence' that councils need to collect to support their decision-making.
  - The role of 'strategic planning' and how councils are required to demonstrate it.
10. Throughout all three categories, councils are required to engage in meaningful consultation with hapū and iwi. Additionally, while settlement arrangements under the Treaty of Waitangi are unlikely to be impacted by the NPS-UD, MfE must engage with hapū and iwi to assess if impacts or conflicts may arise, and manage them if they do.

Figure 1: NPS-UD Implementation actions

## NPS-UD Implementation Actions for Local Authorities



11. As shown in the diagram, different councils will need to meet different requirements. The more rigorous provisions will be targeted to our largest and fastest growing urban centres. This ensures that the more onerous requirements will apply only in the areas where they will provide the greatest benefits – where growth is concentrated and where housing is most unaffordable. The largest urban areas, known as Tier 1 councils, are required to implement all NPS-UD policies. Other fast-growing urban areas, known as Tier 2 councils, are required to implement all NPS-UD policies, except some aspects of the intensification policy. All other urban councils need to comply with the general provisions of the NPS-UD, plus the car parking provisions.

### Councils will need to be supported by Government to implement the requirements of the NPS-UD

12. Some of the NPS-UD requirements are new. MfE and HUD's previous experience implementing the NPS-UDC demonstrated the important role that good guidance and support can play in ensuring the successful implementation of a national policy statement.

### There are several key lessons learnt from supporting councils to implement the NPS-UDC

13. There are varying capabilities in the skills and ways of thinking required under policies, including economic modelling and using price signals. The technical support that we provide to councils will need to be tailored to the individual council's needs.
14. Central government support needs to be provided well in advance of any policy deadlines, because there are long lead times involved and therefore long periods of time in which councils may be working on policy products. Early support will help ensure that councils deliver the intended outcomes.
15. Partnering with councils in growth strategy processes is a very effective way of ensuring delivery of the NPS-UD requirements. Additionally, councils are involved with a number of

agencies working on matters that relate or are connected to improved urban planning, and there needs to be ongoing coordination between MfE/HUD and other government agencies to support councils effectively.

16. A transparent, fair, and well communicated compliance and enforcement strategy, which includes regular messaging to councils, can complement other support provided and improve the extent of implementation.

**There are four key areas of the NPS-UD implementation strategy**

17. The key areas of the implementation strategy are:

1. Supporting councils with guidance and information.
2. Ensuring cross agency collaboration within government.
3. Monitoring and reporting on the effectiveness of implementation in terms of urban outcomes.
4. An effective compliance strategy.

**We will need to target the guidance, support, monitoring and compliance we engage in**

18. The scope of policy direction in the NPS-UD is large. Consequently, MfE and HUD will take a strategic approach to where guidance, implementation and compliance attention is focused, and in what sequence the development and delivery of guidance material is prioritised.
19. There are also a limited range of tools available under the RMA for enforcing compliance with the NPS-UD provisions, so a strategic approach will also be useful here. The main focus of the compliance and enforcement strategy will be on supporting councils to comply first, before considering the use of punitive measures once non-compliance has been detected.
20. MfE and HUD’s prioritisation framework for guidance, support, monitoring and enforcement is:
  - a. **New** – any new requirements that were not part of the NPS-UDC.
  - b. **Impact** – areas with potential for large impact or significant implementation requirements for local authorities e.g. intensification policies.
  - c. **Timeframe for implementation** – policy areas with short/restrictive implementation timeframes e.g. HBA, intensification.

**Key area 1: Supporting councils with guidance and information**

21. MfE and HUD have used the above framework to outline our areas of focus for support to councils. The types of support to be provided have also been informed by council feedback regarding the implementation of the NPS-UDC, and what types of support was most useful.
22. The table below outlines the proposed support for each policy area.

<b>Response type</b>	<b>What this involves</b>	<b>Type of support required</b>
<i>Regulatory response</i>	Councils will be required to implement a range of regulatory changes under the NPS-UD  Key policy changes that are likely to require	Guidance will be provided to councils at gazettal, including policy fact sheets, readily available and accessible data, and examples of best practice.  HUD’s existing strategic partnerships will help support the implementation of plan changes, provide guidance and ensure alignment.

	<p>implementation support include intensification, responsiveness and car parking</p>	<p>MfE and HUD are working with Waka Kotahi NZTA and the Ministry of Transport on relevant policy areas e.g. car parking and intensification to ensure comprehensive parking management plan guidance and accessibility measures tools are available to councils.</p> <p>Councils will be supported in implementing responsiveness policies through Treasury &amp; DIA's Infrastructure Funding and Finance programme.</p> <p>MfE and HUD are developing an internet-based network for councils which documents localities of best practice and expertise and enables everyone to share information and discussion.</p>
<i>Evidentiary response</i>	<p>Key focus is preparing a Housing and Business Assessment (HBA)</p> <p>In particular, new HBA requirements and greater focus on 'likely to be taken up' will have a large impact on development capacity and potential for strong impact</p>	<p>Guidance will be provided to councils at gazettal, including policy fact sheets, readily available and accessible data, and examples of best practice; in particular, we will ensure continued provision of readily usable data via the Urban Development Capacity dashboard.</p> <p>"Best practice examples" will be shared and published.</p> <p>MfE and HUD are developing an internet-based network for councils which documents localities of best practice and expertise and enables everyone to share information and discussion.</p>
<i>Strategic planning response</i>	<p>Prepare FDS - new requirement for Tier 2 councils</p>	<p>Guidance will be provided to councils at gazettal, including policy fact sheets, readily available and accessible data, and examples of best practice; in particular, we will ensure continued provision of readily usable data via the Urban Development Capacity dashboard.</p> <p>Further support will be provided through existing HUD strategic partnerships.</p> <p>MfE and HUD are developing an internet-based network for councils which documents localities of best practice and expertise, and enables everyone to share information and discussion.</p>

## Key area 2: Ensuring cross agency collaboration within government

23. Effective collaboration between the various government agencies that have an interest in the NPS-UD will be important to its successful implementation.
24. The wider UGA programme will be valuable to support implementation and reduce implementation risks, across all agencies that are involved. For example, the Infrastructure Funding and Financing (IFF) work will provide a new tool to facilitate the provision of infrastructure, while the Growth Partnerships work within HUD will assist with the management and mitigation of risks and a channel for the provision of information.
25. It will be important to work with Te Arawhiti, Te Puni Kōkiri and other relevant agencies throughout the implementation process to ensure that the aims of the NPS-UD regarding effective consultation with iwi/hapū, and consideration of iwi/hapū values and interests are met.

26. Cooperation with Waka Kotahi NZTA and the Ministry of Transport will also be critical to the success of the NPS-UD. These two agencies will need to provide additional support to councils through guidance on comprehensive parking management plans and accessibility mapping to support the implementation of the intensification provisions, particularly for Tier 1 councils. MfE and HUD are already working with these agencies through the UGA.
27. MfE and HUD will also frequently communicate with other major government infrastructure providers and procurers, for example the Ministry of Education and Ministry of Health.

### **Key area 3: Monitoring and reporting on the effectiveness of implementation**

---

28. MfE and HUD propose to monitor the effectiveness of the NPS-UD in achieving its intent and objectives, as well as in contributing to the UGA's objectives. The agencies will report to the Minister for the Environment and Minister for Urban Development regularly. Monitoring will build on the expertise developed under the NPS-UDC.
29. MfE and HUD will gather data on the implementation of the NPS-UD, including:
  - a. Decisions relating to urban development to meet the NPS-UD requirements.
  - b. Territorial authorities' completion, timeliness and quality of required products such as HBAs and FDSs.
  - c. Required reporting, including bottom lines and monitoring of housing and development markets.
  - d. Whether or not councils contact Ministers regarding a lack of capacity, as they are required to do.
30. MfE's National Monitoring System (NMS) will play an important role in data gathering. The NMS collects data from all local authorities on their RMA processes, including any plan changes to implement national direction such as the NPS-UD.
31. Other information will be gathered through direct interactions with territorial authorities. Ongoing relationships including the growth partnerships will be a particularly valuable source of information on implementation progress, as well as a means to potentially resolve compliance issues.
32. MfE and HUD will target monitoring and evaluation on certain key areas. These key areas will be those identified as strategic priorities for implementation – new requirements, those with significant impacts, or those with demanding timeframes.

### **Key area 4: An effective compliance strategy**

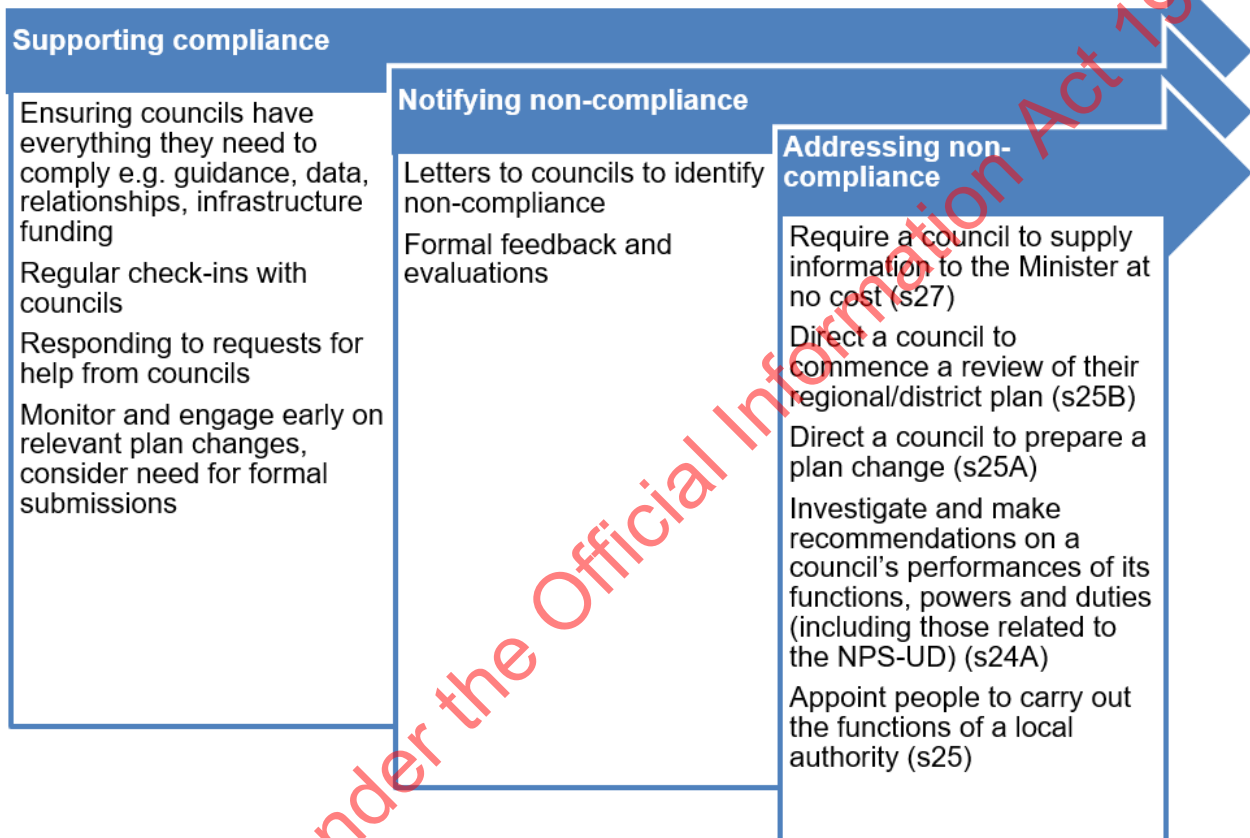
---

33. An effective compliance strategy will help to ensure that councils continue to deliver on the objectives of the NPS-UD.
34. The compliance and enforcement strategy under the NPS-UDC was primarily focused on supporting councils to comply and did not have a focus on more punitive or deterrent actions. This was due to the largely novel requirements, which required a more supportive approach.
35. However, now that councils have had time to get used to the broad requirements of the NPS-UDC, the NPS-UD presents an opportunity for MfE and HUD to achieve higher compliance rates through a more detailed compliance and enforcement strategy. However, to achieve this, it is important that the agencies responsible for enforcing its requirements allocate sufficient resources to do so.
36. Non-compliance with the NPS-UD could look like:
  - a. **Quality issues** – councils are meeting requirements, but not to the desired standard.
  - b. **Short-term compliance issues** – councils will not meet timeframes, but work is progressing.

- c. **Ongoing compliance issues** – councils show a continued failure to meet requirements.

37. The proposed NPS-UD compliance strategy uses the approach endorsed in international literature on regulatory best practice of using of softer mechanisms (such as education and guidance) in the first instance to achieve compliance, and harder mechanisms (such as notifications of non-compliance) if softer mechanisms are unsuccessful in achieving compliance. It also assumes that the majority of councils are willing to comply, and will comply, if they are provided with sufficient guidance and support. This approach is set out in Figure 1 below.

Figure 1: approach to compliance



38. While powers of intervention under the RMA are limited, strategic use of them, coupled with actions in the lower levels of the compliance triangle, can still effectively address compliance. MfE and HUD are developing a comprehensive enforcement strategy. This will enhance council compliance with NPS-UD requirements, and seek to support councils in the first instance, while still having a range of effective tools to manage non-compliance where it does occur.

39. Note that MfE, as the agency responsible for the RMA, will also have responsibility for deploying the RMA's enforcement tools.

## Risks

40. The economic impacts of COVID-19 could make it difficult for some councils to fully fund the implementation of the NPS-UD. A combination of lower than planned rates increases, losses in fees and charges revenue from closed facilities or lower levels of economic activity, lost dividends and investment incomes will all contribute to lost revenue, and consequently lower debt ceilings. Regular conversations with councils will be particularly important to monitor this issue. Regular

updates will allow proactive steps to be taken by government if any councils are experiencing difficulties in fully implementing the NPS-UD as a result of COVID-19-related impacts.

41. Councils may also suffer from broader resourcing issues that restrict their ability to fully implement the requirements of the NPS-UD, including lack of in-house capability. Officials will continue to engage with councils during implementation and will consider the provision of extra support as needs arise. The smaller Tier 3 councils have also been given a longer timeframe to notify the plan changes giving effect to intensification provisions to help mitigate this risk.
42. There is a small risk that guidance for councils on the new requirements may not be ready on time. MfE and HUD will manage this by prioritising guidance required by the date of gazettal over guidance that may be provided at a later date, and will signal when it is expected to be completed.
43. Other areas of national direction are being developed (freshwater management, highly productive land, and indigenous biodiversity), which will require local authorities to achieve multiple objectives. 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 national direction reveal interactions. MfE is continuing to work to align the NPSs in development as far as possible and will jointly with HUD provide non-statutory guidance to further support successful implementation.

## Next steps

---

44. Officials are currently focused on developing the initial guidance that's needed in time for gazettal.
45. Once guidance is complete, work on developing a monitoring and enforcement strategy, and a cohesive compliance and enforcement strategy, will commence.

Released under the Official Information Act 1982