

National Policy Statement:

Urban Development

Details

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General comment

We do not support the National Policy Statement – Urban Development (NPS-UD) as presented in the discussion document.

Given that:

- fundamental reforms of the RMA have been announced;
- the current NPS-UDC has yet to be fully embedded in planning documents;
- there is a lack of alignment with the proposed NPS on highly productive land;
- a proposed national climate change adaptation strategy is soon to be prepared;
- there is a lack of any incentive for participants in urban development (developers, councils and residents) to change their behaviour; and
- the poorly drafted content of the NPS-UD;

we consider that the amended NPS should not proceed.

In particular, there seems little point in progressing a revised NPS aimed at urban development ahead of the RMA reforms. The Government proposes that the RMA review focus on the ways the Act interacts with other key legislation such as the:

- Local Government Act 2002
- Land Transport Management Act 2003
- Climate Change Response Act, to be amended by the Zero Carbon Amendment Bill.

The scope includes spatial planning which has the potential to make better and more strategic decisions about urban development and infrastructure over longer timeframes than the provisions of the draft NPS-UD.

A string of reports and analysis have continually highlighted that the fundamental issues facing urban environments extend well beyond the ambit of the proposed NPS-UD. Issues associated with the funding and integration of infrastructure and responding to long run pressures like climate change are much more important to address.

What is needed is a fundamental resetting of incentives and constraints facing councils and communities, rather than further admonishments.

We also note that key policies on urban expansion (leap frog development) that may be included in the NPS-UD have not been drafted. Any policies relating to out-of-sequence urban expansion need to be formulated and tested through submissions. They should not, as a matter of natural justice, be included in an operative NPS-UD without this step.

Focus on major urban centres

The proposed NPS-UD suggests targeting the most directive policies to the largest and fastest growing urban environments. To this end, the concept of major urban centres is introduced.

We consider that there remains merit in targeting policies at fast growing urban areas, even if they are small in size. Fast growth puts pressure on plans and planning. For example, Wanaka faces the same growth pressures as Queenstown. Cromwell is experiencing spill over growth from both areas and is facing equally hard choices.

There is no certainty that the major centres listed will remain fast growing into the future, yet the directive policies remain tied to these areas. Equally, there is a range of fast growing secondary centres that need some 'encouragement' to plan for growth on a collaborative basis. Examples are the Nelson-Tasman area and Napier-Hastings. These areas have similar growth rates to Hamilton or Tauranga, and may well be of similar size in 20 or 30 years' time. These 'emergent' urban centres are ones that will benefit most from early, comprehensive and forward looking spatial planning. Unless there is a legislative direction to do so, then joint spatial planning is likely to be piecemeal.

At the other end of the scale (small settlements), the definition of urban environments needs to be amended to prescribe a time period and to clarify the meaning of 'concentrated' to help determine where the cut off point for the NPS lies, for example:

Urban environment means an area of land containing, or ~~intended to~~ which may contain within the next 30 years, a concentrated single settlement or group of settlements which share physical services and infrastructure, of 10,000 people or more and any associated business land, irrespective of local authority or statistical boundaries.

Future development strategies (FDSs)

With the reduction in emphasis on ensuring sufficient 'capacity' through the new title of the Policy Statement (NPS-UD, rather than NPS-UDC), the purpose of Future Development Strategies needs to be reconsidered. The discussion document refers to spatial planning as being the intended direction for growth planning. If that is the case, then the FDS policies should provide an appropriate structure. There seems little point to amend FDSs 'as a step towards an integrated spatial planning framework', when more fundamental reforms are around the corner.

Given that there have been constant calls for spatial planning to take a more central role in urban planning, there are a range of precedents to work from. For example, in 2009 the Royal Commission on Auckland Governance proposed a spatial plan with statutory weight that:

- set an overarching strategic direction for the Auckland region;
- integrated and aligned all decision making and planning;
- would ensure implementation through the council's plans and CCOs; and

- facilitates the coordination of all actors involved in delivering the agreed strategic direction.

The matters set out in Section 79 (3) and (4) of the Local Government (Auckland Council) Act 2009 remain relevant:

(3) For the purposes of subsection (2), the spatial plan will—

- (a) set a strategic direction for Auckland and its communities that integrates social, economic, environmental, and cultural objectives; and*
- (b) outline a high-level development strategy that will achieve that direction and those objectives; and*
- (c) enable coherent and co-ordinated decision making by the Auckland Council (as the spatial planning agency) and other parties to determine the future location and timing of critical infrastructure, services, and investment within Auckland in accordance with the strategy; and*
- (d) provide a basis for aligning the implementation plans, regulatory plans, and funding programmes of the Auckland Council.*

(4) The spatial plan must—

- (a) recognise and describe Auckland's role in New Zealand; and*
- (b) visually illustrate how Auckland may develop in the future, including how growth may be sequenced and how infrastructure may be provided; and*
- (c) provide an evidential base to support decision making for Auckland, including evidence of trends, opportunities, and constraints within Auckland; and*
- (d) identify the existing and future location and mix of—*
 - (i) residential, business, rural production, and industrial activities within specific geographic areas within Auckland; and*
 - (ii) critical infrastructure, services, and investment within Auckland (including, for example, services relating to cultural and social infrastructure, transport, open space, water supply, wastewater, and stormwater, and services managed by network utility operators); and*
- (e) identify nationally and regionally significant—*
 - (i) recreational areas and open-space areas within Auckland; and*
 - (ii) ecological areas within Auckland that should be protected from development; and*
 - (iii) environmental constraints on development within Auckland (for example, flood-prone or unstable land); and*
 - (iv) landscapes, areas of historic heritage value, and natural features within Auckland; and*
- (f) Identify policies, priorities, land allocations, and programmes and investments to implement the strategic direction and specify how resources will be provided to implement the strategic direction.*

A requirement to provide some form of feasible development capacity could easily be incorporated into the above.

Having said that, without some form of reference and/or linkage to NZTA's investment programme and the forthcoming work of Kāinga Ora Homes and Communities; as well as other centrally directed infrastructure like Kiwirail and educational and health services; then the preparation and implementation of FDSs is seriously weakened.

As spelled out in a Cabinet paper from 2009 on urban planning:

Because the planning framework comprises various pieces of legislation and is subject to various legal purposes, processes and criteria, there are no mechanisms to agree and then implement a consistent strategic direction across all plans and decision making. The problem is threefold.

First, no mechanism currently exists for agreeing a long-term, strategic direction for a region that takes account of the range of issues relevant to managing growth (e.g. affordable housing, infrastructure, supply and demand of business land) and integrates across broad objectives.

While Council's can voluntarily set an overarching strategic direction there would be no compulsion, or guarantee of what the scope of the direction would be.

Second, there is limited ability for the Councils to implement a strategic direction consistently through its plans and decision making. This is because there are currently no legislative linkages between any agreed strategic direction and the council's plans.

Third, there is also no effective mechanism for engaging with and informing to give greater certainty to other parties (e.g. central government, the private sector, infrastructure providers) about the likely shape of future development. Therefore there is no basis upon which to target and agree the type, scale, timing or location of investment decisions, so as to better coordinate activities that are critical for delivering the strategic direction.

Until these issues are addressed, there seems little benefit from the changes proposed. The 2009 reforms for Auckland did not make the Auckland Plan the dominant plan, as envisaged. The issues of legislative links, appeal rights, and the overall shape of the planning framework in the long-term was deferred to the then 'urban work stream of Phase Two of the resource management reform process that is underway'. That process was never completed.

History would appear to about to repeat itself.

National level direction about the features of a quality urban environment

The proposed objective and policies associated with 'quality urban environments' are not fit for purpose. The proposed qualities set out in Objective O2 are functions of urban areas, not qualities.

The quality of the urban environment (covering both the built and natural environments) is critical to the long term success of urban areas and with this, society's response to long running issues like mental health, obesity, crime and safety, as well as productivity and economic transformation. To reduce quality to a list of functions is a serious miss understanding of urban systems and how they work.

The discussion document recognises the wider role of urban quality and the dimensions involved, yet goes not further than saying that these wider dimensions would be noted in the preamble to the NPS.

The relationship between urban quality and urban amenity is unclear. There is a significant overlap between amenity and quality and unless that overlap is clarified, then there will be substantial confusion. Is the notion of 'urban quality' intended to replace urban amenity? The discussion document suggests that the NPS-UD would be used to help operationalise sec 7 (f) of the RMA – the maintenance and enhancement of the quality of the environment.

If the NPS is to introduce the principle of urban environmental quality, then it needs to do so in a meaningful way, for example, urban environments that:

- encourages people to feel safe and give them a sense of stability
- fosters a sense of community.
- are designed so that walking, cycling and public transport are natural and attractive options.
- are places for people – places that are designed, built and maintained on the principle that people react instinctively in positive and negative ways to the built environment.
- contribute to the quality of life and encourage healthy and sustainable lifestyles.
- are places in which we want to live, work, bring up our children, and spend our leisure time.
- are places, which promote economic success and allow people to share in rising prosperity, attracting and retaining successful businesses.

The NZ Urban Design Protocol is another attempt to define quality environments, yet the Protocol appears to be side-lined.

Proposals to clarify that amenity values are diverse and change over time

The NPS-UD proposes to add a requirement that in making planning and consent decisions, decision-makers must recognise that amenity values:

- vary among individuals and
- communities change over time.

How this requirement is to work in practice is not spelled out.

It is presumed that the policy is aimed at the amenity of urban environments, not rural environments.

Plans seek to provide an acceptable view on what constitutes 'urban amenity', given diverse views. While far from perfect, at least Plans provide a reference point as to what constitutes amenity. A requirement to take into account a variety of views around this reference point opens the door to competing views, both in the sense of a wider or narrower view of amenity. The clause as drafted is likely to be used by submitters claiming that the Plan's assessment of amenity values is wrong, and that their individual views are not being taken into account. As a result, if anything the policy is likely to increase opposition to change.

The reference to communities changing over time provides no assistance, as the direction and shape of change is not known.

Rather than refer to individual tastes and changing communities, the real issue is that the bundle of amenities associated with different types of urban environments vary. Low density urban environments have a different set of amenities to those associated with high density environments. A transition occurs as one set of amenities gets replaced with another. That transition involves both the quality and design of development, as well as the nature and form of public resources in areas subject to change.

Sec 7 of the RMA requires that amenity values and the quality of the environment are maintained and enhanced over time. If the concern is that this is too often taken to mean a requirement to maintain what exists, rather than plan for a different type of urban environment, then the wording of Sec 7 of the RMA should be amended. For example:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to:

the ability of current and future generations to access and enjoy a range of amenity values typically associated with different forms and densities of urban and rural development.

If an NPS-UD is to be advanced, then the NPS could usefully start to spell out what these different amenity values could be comprised of, rather than refer to the very open ended concepts proposed.

Provide development capacity that is both feasible *and likely to be taken up*

Introduction of a further qualifier as to development capacity that has to be provided (feasible and likely capacity) opens up a significant methodological issue as to what is 'likely'. There appears to be no definition provided as to how the term 'likely' is to be determined.

There is reference in the discussion document to "Likely to be built, using as a starting point information about past development in building consent data". Reference to past development patterns would appear to entrench these past patterns, rather than be a positive move towards understanding future needs.

The discussion document suggests that these changes will require local authorities to allow more opportunities for development in local authority plans. This requirement is intended to recognise that only a portion of the development that is enabled will actually occur.

Introduction of the word "likely to occur" along side the concept of 'feasibility' supports the status quo and a short term view of urban pressures and demands. The two terms completely fail to understand that urban development patterns and demands are shaped by a wide range of pressures and forces, many of which are miss aligned and which fail to adequately manage future risks.

If the concept of 'likely to be taken up' is to be used, then the concept also needs to be applied to development that is not currently feasible, but which may become feasible over time. There are many cases where development is not considered feasible on simple financial metrics, but which is likely to occur in the future.

Requiring objectives, policies, rules, and assessment criteria to enable the development anticipated by the zone description

The change would require an assessment to ensure the objectives, policies, rules, and assessment criteria set out in district plans are individually and collectively consistent with the expected development for each zone as described in the zone description.

This proposed change appears to be trivial in extent.

Policies to enable intensification in the locations where its benefits can best be achieved

This set of policies is, perhaps, the most beneficial of the amended NPS. However they need further work. The proposed objectives and policies raise a range of issues:

- P6A provides no definition of high density, yet this is the mandatory policy
- Does high density mean high rise?

- Higher densities need to be accompanied by more attention to urban design – where is the relationship to quality urban design?
- What about development in heritage areas, special character, volcanic viewshafts? Do they still stand or does the NPS override these due to it being a national policy?
- Are high density residential developments going to be open to submissions and appeals?
- The areas listed in P6A where high density should be enabled cover most parts of a city - for example areas with a 'high-demand for housing'. This would apply to all of Auckland, for example.

The national planning standards provide for medium density and high density residential zones. Should these terms be referenced, as follows:

- Medium density residential zone means areas used predominantly for residential activities with moderate concentration and bulk of buildings, such as detached, semi-detached and terraced housing, low-rise apartments, and other compatible activities.
- High density residential zone means areas used predominantly for residential activities with high concentration and bulk of buildings, such as apartments, and other compatible activities.

For much of urban New Zealand, it is the 'medium' category that needs the policy support - two and three storey town houses and flats. High density zoning makes up only a small proportion of demand.

It is unclear how the intensification policies and the associated capacities and environments are aligned with the other changes signalled in the NPS. For example:

- The emphasis on spatial planning
- Intensification is often not seen to be feasible or likely, in terms of the policies on development capacities
- Many people see the resulting amenity values as being alien to their consideration of what constitutes amenity (or for that matter, quality).

In terms of locational principles, medium to high density residential development needs a close relationship to open spaces and community facilities to help sustain demand and to address issues of urban quality and liveability.

Access to jobs and services is important, but secondary. Locations for high density development need to be co-related with public transport networks. These need to be frequent services if they are to influence travel behaviour, otherwise high density development will mean very high car dependency. There needs to be a definition of 'frequent', for example:

Frequent services operate at least every 15 minutes with priority measures (e.g. bus lanes and signal priority) and are less affected by road congestion than if they operated in general traffic.

Some areas in a city are more able to absorb and accommodate the resulting changes in urban form than others. For example are areas adjacent to centres and corridors, where there can be a logical 'stepping up' in development density. Some landforms lend themselves to intensive developments

There needs to be an explicit qualifier that enablement comes with a commitment to high quality urban environments.

Taking into account the above, the policies should be amended, for example Policy 6A:

P6A: Enable medium to higher-density residential development especially in areas where there is, or intended to be: ~~one or more of the following:~~

- *proximity to ~~many employment opportunities~~ suitable open spaces and community facilities*
- *urban amenities employment opportunities and services are easily accessible by existing or planned active transport and frequent public transport networks*
- *the ability to absorb a variety of development densities and heights into the urban landscape, such as areas adjacent to centres and near important corridors, or where landforms help to manage transitions*
- ~~*high demand for housing*~~
- ~~*best use can be made of existing or planned infrastructure, services and facilities.*~~

while:

- *avoiding areas of identified landscape value or special character that are incompatible with higher intensities of built development; and*
- *ensuring that the development contributes to high quality urban environments.*

Policy providing for plan changes for out-of-sequence greenfield development and/or greenfield development in locations not currently identified for development

We note that no specific policies are proposed in relation to ‘out-of-sequence’ greenfield development. Only general statements are provided. We do not see how a binding NPS could be issued on the basis of the general statements provided.

The following is proposed:

When considering a plan change that enables urban development that is not otherwise enabled in the plan, local authorities must provide for urban development when all of the following apply:

- Development enabled by the plan change would contribute to a quality urban environment, including access to transport choice.*
- Development enabled by the plan change would not have adverse effects on protected areas or areas identified for restoration.*
- Development under the plan change can occur in a way that is appropriate, safe, and resilient in the long term in respect of natural hazards and the effects of natural hazards.*
- Reverse sensitivities are appropriately managed within and adjacent to the location or locations that are the subject of the plan change.*
- Infrastructure to enable the long-term development of the land can be provided.*

There are two forms of out of sequence greenfields development:

- Urban development that is signalled in a plan or strategy, and where the timing is controlled or managed in some way, but the development wishes to proceed more quickly than that indicated; or

- Urban development that is not within an area that is signalled in any public plan as an area for expansion.

The linkage between this policy and the policies requiring or encouraging Future Development Strategies is unclear. There seems little incentive to complete a Future Development Strategy if such an enabling policy is available to be taken up at any point in time.

A fundamental issue with both scenarios is who will provide the infrastructure and when? The discussion document refers to the following:

- the full costs of development (including on the wider network) should be met.
- that the onus to provide infrastructure (including wider network considerations) should not fall on the local authority when not provided for by their long-term plan and/or development plan process.

To these could be added a third principle: Urban form shaping infrastructure, like frequent public transport networks and associated services should be in place ahead of development, not lag it.

These conditions should be part of the above policy. Once land is zoned for urban development, then there is an implicit assumption that network services will be provided by public agencies. If councils (and other government agencies like NZTA and the Ministry of Education) have to face funding demands on multiple fronts, then there is the potential for significant inefficiencies in urban development.

For the planned, but not-in-sequence development, other relevant issues are the extent to which the out-of-sequence development may frustrate or slow the uptake of already planned and sequenced development, where funding is already committed. For example development sequencing may support the early establishment of a new centre or employment area. Competition from an out-of-sequence development may undermine the feasibility of such development with a range of social and economic consequences. There may be significant funding and financing issues for developers and council who have pre-committed funds to this 'in-sequence' development.

For urban development that is not in an area identified for future expansion, then a more comprehensive list of criteria are needed. There will be significant confusion as to how the policy should be applied alongside similar policies that already exist in many Regional Policy Statements.

Limiting the ability for local authorities in major urban centres to regulate the number of car parks required for development

We support moves to reduce or eliminate minimum car parking requirements.

We note that for many commercial developments, there is a strong desire to 'over supply' car parking (i.e. car parking well in excess of minimums) relative to the capacity and sustainability of the surrounding transport network. There is rationale to allow for the imposition of maximum on-site car parking requirements. It would be good to make this explicit – that maximum parking rates are a legitimate tool.

Enabling Quality Urban Development

The discussion document suggests that a more directive national tool could remove or replace rules (or the objectives, policies and rules in the case of a planning standard) for an urban area or particular zone that may unduly limit the type and form of development that occurs.

Examples of rules that are said to potentially disable quality urban development are:

- height, or height in relation to boundary, which limit upward development
- density and subdivision standards, which constrain the size of properties or numbers of houses per property
- private outdoor space, which may not respond to the potential to leverage public or shared outdoor spaces
- site coverage, which limits the amount of a property that can be covered by buildings
- minimum floor areas/apartment sizes, which reduce the variety the market can offer.

The very narrow definition of quality urban environments discussed previously becomes apparent in this section of the discussion document.

We support an NES or National Planning Template that sets out the actual provisions that should apply to certain forms of residential development, rather than a prohibition on certain matters. High density development is the obvious first candidate for such a template. If it is accepted that redevelopment to higher densities than current suburban patterns involves a new set of amenities and urban quality being delivered, rather than an old set being maintained, then there is no need for the NES or similar to reflect 'local character'. We would recommend that MfE commence preparation of such a template, and introduce specific text, rather than seek to introduce very general criteria about what should be in or out via the NPS.