



Briefing

National Policy Statement on Urban Development: Policy Recommendations Package			
Date:	25 March 2020	Security level:	In Confidence
Priority:	Medium	Report number:	BRF19/20020558 2020-B-06469

Action sought		
	Action sought	Deadline
Hon Phil Twyford Minister for Urban Development	Agree to recommendations in this report	10 April
Hon David Parker Minister for the Environment	Agree to recommendations in this report	10 April

Contact for discussion			
Name	Position	Telephone	1st contact
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Other agencies consulted
The Treasury, Department of Internal Affairs, Ministry of Transport, Te Arawhiti, Ministry for Primary Industries New Zealand, Te Puni Kōkiri, Ministry of Social Development, Kainga Ora, Ministry of Culture and Heritage, Office for Disability Issues

Minister's office to complete

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



Briefing

National Policy Statement on Urban Development: Policy Recommendations Package

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

Date: 25 March 2020

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Purpose

1. Seeks your agreement to recommended policy approaches on the National Policy Statement on Urban Development (NPS-UD), as reflected in the Recommendations Report (annex B). We seek approval of these recommendations in order to meet timeframes for gazettal in July 2020.
2. The policy recommendations package for the NPS-UD includes: Recommendations Report (Annex B); Section 32 analysis (annex C); Cost Benefit Analysis (annex D); a draft recommended National Policy Statement on Urban Development (Annex E) and Ministers' Foreword (annex F).

Executive summary

- 3 The proposed National Policy Statement on Urban Development (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 is strategic and responsive to demand and enables well-connected growth. This will, in turn, lead to improved mobility and more dynamic land use.
- 4 Based on formal consultation, analysis and engagement with the Technical Advisory Panel ('the Panel'), we have prepared recommendations for policies in the NPS-UD that will cumulatively help achieve the objectives of the UGA and competitive land markets. Recommendations are presented in this briefing and a more fulsome analysis is provided in the Recommendations Report, which includes the summary of submissions previously provided to you (annex B).
- 5 The Recommendation Report is provided in accordance with section 46 of the Resource Management Act 1991 (RMA) and is informed by both section 32 analysis and Cost Benefit Analysis.
- 6 Officials undertook significant work with the Technical Advisory Panel during the latter stages of the policy development process, including consideration of submissions and policy analysis, and found this valuable to quality check recommendations. The Panel have indicated general support for the outcomes sought through these policy recommendations.
- 7 Recommendations fall into two categories:

- Category 1: refinement of policies for greater clarity or to address technical issue
 - Category 2: more substantive changes or decisions required to achieve the intent of both the proposed policy and the broader NPS-UD.
8. This briefing seeks your agreement to changes to the proposed NPS-UD following public consultation, as statutorily required under section 52(1) of the RMA. The process outlines the following:
- firstly, you must consider the report and recommendations; and then
 - make any changes as you see fit; and then
 - undertake an evaluation of the proposed national policy statement in accordance with section 32.
9. Once these requirements are met you can recommend the making of the national policy statement to the Governor-General in Council under section 52(2) of the RMA.
10. In order to meet requirements under section 52(3)(c) of the RMA, your decisions on recommendations in this briefing will be reflected in a final 'recommendations and decisions report' and this will be made available to submitters. This will include a summary of recommendations and a summary of the Minister's decision on the recommendations (including reasons for not adopting any recommendations).
11. The Panel's letter (Annex G) indicates support for the policy outcomes sought through the NPS-UD but notes this support can only be expressed in general terms due to changes in the Terms of Reference that did not enable a review of a final draft national policy statement. We will use this feedback to inform the establishment of future external advisory panels. We have also reengaged with several council's based on your direction and the Panel's advice that policy recommendations had changed in substance from what was consulted on.

Recommended actions

It is recommended that you:

1. **Agree** to key recommendations on the National Policy Statement on Urban Development:

a) Intensification policy

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

*Agree/
Disagree*

b) Responsiveness planning policy (previously enabling further greenfield)

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

*Agree/
Disagree*

c) Car parking

- i. Require local authorities in Tier 1 to remove minimum car park requirements, in all zones
 - ii. Encourage all local authorities to manage the supply and demand of car parking through comprehensive parking management plans.
- Agree/
Disagree*
- d) *Housing and Business Assessments (HBA)*
- i. Maintain competitiveness margins of 20 percent in the short and medium term and 15 percent in the long term
 - ii. Extend the requirement to prepare a three-yearly HBA in time to inform long term plans under the Local Government Act to Tier 2 councils but with simpler requirements for evidence
 - iii. Clarify meaning of 'take-up', replacing the term with reasonably expected to be realised, and support with guidance and examples
- Agree/
Disagree*
- e) *Housing affordability*
- i. *Include an objective to recognise the role of planning decisions in improving housing affordability through supporting competitive land and development markets*
- Agree/
disagree*
- f) *Describing quality urban environments*
- i. Replace references to 'quality urban environments' with 'well-functioning' urban environments
 - ii. Include a policy outlining a non-exclusive list of functions that a well-functioning urban environment is expected to deliver.
- Agree/
Disagree*
- g) *The values and aspirations of Māori in urban planning*
- i. Provide direction to local authorities to take into account the principles of the Treaty of Waitangi (te Tiriti o Waitangi) in urban planning
 - ii. Increase the scope of the matters to be taken into account by local authorities to enable Māori to identify a desired future state for the urban environment instead of just providing for a reaction to current state
 - iii. Require local authorities, in carrying out the HBA, to assess how the housing market is providing for Māori housing demand is being met.
- Agree
/disagree*
- h) *Climate*
- i. Include an objective that the urban environments support reductions in greenhouse gas emissions
 - ii. Include policy that decision-makers must have particular regard to the current and future effects of climate change when making decisions relating to urban environments.
- Agree/
disagree*
- i) *Application*
- i. Retain the three-tiered approach with specific policies being targeted to Tier 1 and 2 and general policies applying to all urban environments but change the expectations about what policies each tier must follow.
 - ii. Confirm that Tier 1 will include local authorities in: Auckland, Hamilton, Wellington, Tauranga, Christchurch
 - iii. Confirm that Tier 2 will include local authorities in: Napier-Hastings, Nelson-Tasman, Whangarei, Palmerston North, New Plymouth, Rotorua, Dunedin, Queenstown
- Agree
/disagree*

- j) *Policy timeframes and transitional arrangements*
- i. All objectives in the NPS-UD apply immediately from date of gazettal
 - ii. Tier 1 and 2 councils have two years from the NPS-UD gazettal to notify plan changes to implement all intensification policies
 - iii. Tier 1 councils would have 18 months from the NPS-UD gazettal to notify plan changes to implement car parking policy
 - iv. Tier 3 councils would be required to notify plan changes to implement the relevant intensification policies as soon as practicable HBAs must be updated every three years.
 - v. Tier 1 and 2 councils would be required to complete the housing assessment aspect of the Housing and Business assessments by July 2021 and the full Housing and Business assessment (including business assessment) in time to inform council's 2024 long-term plans
 - vi. Future Development Strategies (FDS) should be prepared or reviewed in time to inform council's 2024 long-term plans
 - vii. Local authorities should review FDS every three years, informed principally by the latest HBA and ongoing with development sector engagement about development opportunities. Local authorities must follow a Special Consultative Process in relation to aspects that are deemed necessary to update *Agree/
disagree*
2. **Agree** to the other recommendations in the report and recommendations (Annex B). *Agree
/disagree*
 3. **Note** that section 32 analysis supports key policy recommendations made in the recommendations report (Annex C) *Noted*
 4. **Agree** that you have:
 - i. considered the recommendations reports made under section 52(1)(a) of the RMA
 - ii. have had particular regard to the evaluation report made in accordance with section 32 of the RMA. *Agree
/disagree*
 5. **Note** current drafting of the NPS-UD (Annex E) reflects policy recommendations and will be updated to reflect decisions on these recommendations *Noted*
 6. **Agree** that officials prepare a further evaluation report in accordance with section 32AA of the RMA to reflect any further policy decisions made not included in this paper. *Agree
/disagree*
 7. **Agree** that the NPS-UD meets the requirement of section 45(1) in that it assists in achieving the purpose of the RMA. *Agree
/disagree*
 8. **Agree** to refinement of policies for greater clarity or to address technical issues outlined in Annex A *Agree
/disagree*
 9. **Agree** to share the draft National Policy Statement on Urban Development with councils involved in growth partnerships as part of the UGA, prior to reporting to Cabinet *Agree/
disagree*

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|---|---------------------|
| <p>10. Note that pending Crown Law review, and for the sake of clarity and consistency across national direction (in particular for decisions still to be taken on the Essential Freshwater package and the NPS-Highly Productive Land), minor and technical amendments to the wording of the draft National Policy Statement on Urban Development (Annex E) may be undertaken prior to reporting to reporting to Cabinet in June 2020</p> | <p><i>Noted</i></p> |
| <p>11. Note the proposed NPS-UD will not restrict local authorities and iwi/hapū from implementing relevant Treaty Settlement Act obligations in their regions, district and rohe</p> | <p><i>Noted</i></p> |
| <p>12. Agree that you have had particular regard to the matters in the Treaty of Waitangi Settlements Acts highlighted in the recommendations report</p> | <p><i>Agree</i></p> |
| <p>13. Note that officials from MfE and MHUD will provide you with a final NPS-UD, draft Cabinet paper, Regulatory Impact Statement, section 32AA report and Recommendations and Decision report once we have received your decisions on the recommendations report</p> | <p><i>Noted</i></p> |



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25/03/2020

Hon Phil Twyford
Minister for Urban Development

..... / /



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..... / /

Background

- 12 The proposed National Policy Statement on Urban Development (NPS-UD) will provide national direction under the Resource Management Act 1991 (RMA) and replace the National Policy Statement on Urban Development Capacity 2016 (NPS-UDC). In doing so, it 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 enables well-connected growth, in turn leading to improved mobility and more dynamic land use.
- 13 The NPS-UD is part of the 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. In particular, the NPS-UD will be supported through the UGA by new tools for infrastructure funding and financing, investment in modern multi-modal transport systems and stronger partnerships between central and local government, and iwi, hapū and communities.
- 14 A draft discussion document on the NPS-UD was publicly notified and consulted on between 21 August and 10 October 2019. The draft discussion document contained objectives and policies in four key areas: future development strategies, making room for growth, evidence for decision-making and processes for engaging on planning (figure one). Cumulatively these would achieve higher-order objectives of the NPS-UD.



Figure one: interaction between NPS-UD policies

- 15 On December 2019 we provided advice [BRF19/20110512 and 2019-B-06275 refers] on submissions received through this consultation and key issues identified through subsequent analysis to discuss with you in February 2020.

16. As part of the officials-led process under s46 of the RMA, a Technical Advisory Panel was also established. Officials met with the panel in early December 2019 and January 2020 to discuss and test policy options. These discussions have informed policy recommendations presented, and areas where we have not agreed with the panel's advice is set out in the recommendations report. The panel have also provided a statement (annex F) which is discussed later in this briefing.
17. On 5 February 2020 we provided an update on preferred policy options [BRF19/20010543 and 2020-B-06424 refers] and outlined areas in which substantive changes to better achieve the intent of the policy were proposed, as well as areas that will require further policy work.
18. On 4 March we provided advice on further policy decisions and how the NPS-UD will support competitive margins [BRF19/20030568 and 2020-B-06529 refers].
19. Recommended amendments to policies consulted on are presented in this briefing and a more fulsome analysis is provided in the full Recommendation Report attached. The Recommendation Report is provided in accordance with section 46A(4)(c) of the Resource Management Act 1991 (RMA) and is informed by both section 32 analysis and Cost Benefit Analysis. In order to meet requirements under section 52(3)(c) of the RMA, your decisions on recommendations in this briefing will be reflected in a final 'recommendations and decisions report' and this will be made available to submitters. This will include a summary of recommendations and a summary of the Minister's decision on the recommendations (including reasons for not adopting any recommendations).

We recommend keeping policy intent as consulted, but making some changes to achieve this intent

20. Submitters were generally supportive of the intent of the NPS-UD as presented in the discussion document, and we recommend retaining the scope of most of the content that was presented. Recommendations outlined in the report and this briefing fall into two broad categories:
 - *A: Refinement of policies for greater clarity or to address technical issues* – these are recommendations for amendments of technical of nature and do not make substantial changes to the policy approach consulted on and are summarised in Annex A
 - *B: More substantive changes or decisions to achieve the intent of both the proposed policy and the broader NPS-UD.* Substantive changes or decisions required primarily relate to making room for growth – and will better enable well-functioning urban environments and competitive urban land markets. These are discussed in the section below and summarised in Annex A

B: more substantive changes or decisions to achieve the intent of the NPS-UD

Intensification policies amended to include prescriptive direction where evidence of benefits is strongest

21. The discussion document consulted on options (both a prescriptive and descriptive approach) for directing councils proposed to be major urban centres to enable development density in particular locations. In further testing of the implications of policies as consulted, analysis showed it is difficult to prescribe precise intensification metrics at a national level, without unintended consequences.
22. For example, in some areas a prescribed density may be less than optimal in a location, while in others, local circumstances such as soil quality or some other factor may make a prescribed density incompatible. We have therefore recommended a mixture of descriptive policies, which would provide guidelines for how local authorities set density in certain areas, and prescriptive policies that would set specific density provisions for areas where we have the greatest evidence of benefit – city centres, metro centres, town centres and rapid transport.
23. The prescriptive policy would direct councils to enable the higher levels of development around rapid public transport stops, and in and around city centre and metropolitan centre zones (or

the equivalent if National Planning Standard zones have not yet been implemented). These locations currently provide the best proxy for locations of highest accessibility and demand, and there is strong economic evidence to demonstrate that reducing constraints on development in these locations will have the biggest impact. We also recommend taking a descriptive approach that provides local authorities with flexibility to determine what a 'walkable' catchment is in other areas, supported by guidance that would provide a methodology for determining suitable walkable catchments. We will work with the New Zealand Transport Agency (NZTA) to develop this guidance.

24. We also recommend the use of 'storeys' rather than 'metres' to prescribe height, as this would allow the development sector more flexibility in implementation and will be effective when coupled with policies that direct plan content to be consistent with development outcomes.
25. We recommend that the above approach is accompanied by an 'exceptions' policy, recognising that in some locations, intensification will not be suitable to the level envisaged by the policy. Clear direction on the nature of exception would be provided through this policy, and any exception must be supported by clear evidence of the need for exceptions at an individual property level. The next highest level of urban development density that is compatible with the exception would be required in all exceptions.

Policy to ensure plans are responsive to new opportunities, both up and out

26. The discussion document included an example policy that would direct local authorities within MUCs to be more responsive to change requests for urban development that were a) out of sequence, or b) unidentified in plans. The example policy was directive, using the term 'must provide for urban development'. To ensure negative externalities were managed from such a directive policy, the example included a list of factors that apply as conditions. However, we consider this list would potentially introduce an even more stringent test than the status quo and not lead to responsiveness.
27. We recommend a policy to ensure that local authorities are responsive by having particular regard to proposals that would add significant development capacity and contribute to well-functioning urban environments and that are well connected along transport corridors. This will ensure opportunities considered adhere to principles of well-functioning environments and minimise externalities and poor urban outcomes from isolated, disconnected development. Significant development capacity is included to ensure that local authorities are able to focus resource and attention on the promising opportunities, and are not inundated with requests for plan changes that related to small parcels of land that would not yield a large increase in dwellings. This policy would apply both to regional policy statements (RPSs) and to decisions on plan changes to district and regional plans. Analysis undertaken by Boffa Miskell, reported to you on 4 March, shows this approach would be effective in curtailing provisions in RPS that would constrain non-contiguous development.
28. Both MoT and Treasury have provided feedback on this element of the responsiveness policy, each from differing perspectives.
 - a. MoT has provided feedback that areas considered under this policy should be strengthened to "well-connected to rapid transit or frequent public transport services" – not just "transport corridors". However, as the definition of 'well-functioning urban environments' is that they have good accessibility (including by way of public transport) and support reductions in greenhouse gas emissions, they are satisfied that the wording of the policy should still encourage responsive developments in appropriate areas.
 - b. Treasury has provided feedback that the policy should set a low bar for what is considered significant development capacity and allow for the well-functioning policy to signal transport expectations, rather than emphasising the need for well-connected opportunities specifically. They view that specific requirement for well-connected may risk that the policy will undermine benefits greater than the externalities it seeks to control for, such as congestion. Treasury argues that negative externalities can be better managed by other tools such as congestion charging, transport funding, job dispersal and active transport incentives.

29. We recommend retaining wording that links to well-connected corridors as this will ensure the opportunity for investment in transport connection in the future, without placing an onerous requirement that public transport is immediately in place at the time of proposal. We also consider it inappropriate to define 'significant development capacity' at a national level as this will be different for each locality. Defining at a national level may lead to an underestimation for some local authorities or unrealistic expectations in others. Instead, we recommend addressing this question through guidance, in particular linking to the work being undertaken through the UGA.
30. This policy would be complemented by a requirement for councils to consult with developers to understand the nature, scope and timing of development opportunities they are pursuing through the FDS. This would help build responsiveness within the strategic planning process and over time may reduce the need for unanticipated and out-of-sequence plan change requests.

Removing car parking minimum requirements

31. The use of minimum car parking requirements, particularly in major urban centres, has led to inefficient use of urban land and price distortions. The discussion document proposed policies that would limit the ability of local authorities in major urban centres to regulate the number of car parks required for development. The intent is to achieve more efficient land use, more space for housing, and reduced development costs.
32. Three policy options were consulted on that would apply to Tier 1:
 - **Option 1:** removing the ability of local authorities to regulate the requisite number of car parks (neither minimums nor maximums), in all zones
 - **Option 2:** removing the ability of local authorities to set minimum car park requirements, in all zones
 - **Option 3:** removing the ability of local authorities to set minimum car park requirements in certain zones, providing for more intensive development.
33. Option 2 is recommended as it is supported by the initial Cost-Benefit Analysis that shows the benefits of decoupling the cost of car parking from housing and other developments is high. Additionally, we recommend the inclusion of new direction, encouraging all urban areas to manage parking spill-over through comprehensive parking management plans.
34. While this option removes the ability of local authorities to direct minimum parking requirements, it still enables the private provision of parking space where market demand for parking exists. Accessibility carparks must also still be provided for. We expect private provision is likely to continue at the same rate in the short-medium term. Under this option, individuals may continue to purchase or rent spaces but will bear the direct cost of delivery of these car parks, rather than spreading the costs onto those that do not need or want them.
35. Officials will continue to work with NZTA to ensure that local authorities have adequate guidance to help local authorities with parking management following the gazettal of the NPS-UD.

Housing and Business Assessments and margins

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

- 38 The requirements under the NPS-UD for HBAs are likely to add significantly more development capacity than under the NPS-UDC. In particular, greater focus on development capacity that is ‘reasonably expected to be development’ will have an impact. For example, two councils have undertaken work to calculate how much of their feasible development capacity can be “reasonably expected to be realised” (eg actually developed) in the short and medium terms. They both found that it reduced their count of development capacity by almost 40 percent. In other words, they will need to enable an additional 40 percent more feasible, likely to be realised development opportunities than under the NPS-UDC. The councils are both already acting on this information.
- 39 The discussion document proposed that the NPS-UD require councils to provide sufficient development capacity, that is commercially feasible and reasonably expected to be realised (referred to as ‘likely to be taken up’ in the discussion document). This would require local authorities to:
- a. Meet projected demand for housing and business land
 - b. For Tier 1 and 2 councils, also provide an additional margin of 20 percent in the short and medium terms and 15 percent in the long term.
- 40 On February 11 2020, you requested that we test options for increasing the “competitiveness margins” in the NPS-UD. We have undertaken this analysis, including consultation with the Treasury, Department of Internal Affairs (DIA) and Office of the Auditor General on options.
- 41 We recommend maintaining the margins proposed in the discussion document. This is because:
- The suite of NPS-UD policies (intensification policy, responsiveness policy and focus on development capacity that is reasonably expected to be realised) are likely to be more effective in increasing development capacity than increasing margins
 - There is no sufficiently rigorous indicator that could be linked to any particular percentage increase in the competitiveness margin
 - There is a compliance risk for local authorities if they consider increased margins would require unjustifiable infrastructure expenditure that can’t be recovered from development contributions.
- 42 The DIA is supportive of the overall intent of this approach but have expressed concern that competitiveness margin creates risks for local government funding and financing. DIA considers that there needs to be a conversation between central and local government about appropriate funding mechanisms for the competitiveness margin, particularly given the limited existing funding mechanisms currently available to local government. A full discussion of this analysis is provided in annex H.

Objective on housing affordability

- 43 The cumulative impact of NPS-UD policies are intended to help improve housing affordability by removing unnecessary restrictions to development and improving responsiveness to growth in the planning system. While this is referred to in the context section of the discussion document it was not clearly referenced through a proposed objective. This omission was raised by some submitters and agencies. We consider that a clear objective on housing affordability would support the intent of the NPS-UD.
- 44 It is important that the term “affordable housing” does not create unintended consequences, particularly as there is no consistently agreed upon definition on the term. In some cases, a local authority could interpret a housing affordability objective to mean they must only be interested in the provision of low-cost homes – rather than enabling a competitive land market that will improve affordability in the aggregate.
- 45 Therefore, to avoid this risk, we recommend an objective that clearly states the intent of the NPS-UD is to support housing affordability as delivered through planning decisions that support competitive land markets.

Well-functioning urban environments

- 46 The discussion document proposed policies to give direction on the nature of quality urban environments both in existing and future urban environments. However, the proposed policy led to varying interpretations of the scale it applied to (often interpreted as site-specific direction) and lacked clarity on what it seeks to achieve. This is because understanding of the term 'quality' varies and is typically associated with site-specific and aesthetic features.
- 47 Under this interpretation, what makes a quality urban environment would differ according to local circumstances and the interests of different communities. This lack of clarity undermines the policy's intent, which is to provide national direction on what decision-makers consider the critical features and functionality of an urban environment when making choices about development that occurs in the city. We therefore recommend the replacing the term quality with 'well-functioning urban environments' to better align with the intent of the policy.

Direction on climate change

- 48 Several submissions noted that the proposed direction did not explicitly reference climate change despite the impact that urban development can have on the climate. While the cumulative impact of proposed policies in the NPS-UD were designed to support reductions in greenhouse gas emissions, we recommend including an objective in the NPS-UD that explicitly references climate considerations.
- 49 This would more clearly signal that we expect planning decisions to support well-functioning urban environments and contribute to climate change outcomes, while giving flexibility to local authorities on how to give effect to this. The policy direction on climate change mitigation would apply at the plan making stage only, rather than the resource consent level.

The values and aspirations of Māori in urban planning

- 50 The discussion document presented a narrow scope of provisions relating to Māori engagement and may have limited the ability of Māori to have a role in shaping the future state of the urban environment which would have undermined the intent of the policy. To address this issue we recommend removing reference to whenua Māori and have provided direction to councils to understand and take into account *Māori values and aspirations for urban development, in particular, those of tangata whenua*. This extends the scope of the policy because the identification of values and aspirations for Māori would not be limited to Whenua Māori.
- 51 Submissions we received from iwi/Māori, including Ngāi Tahu and Waikato Tainui, also sought greater recognition of the Treaty of Waitangi and of Treaty settlements in the NPS-UD. In response to these submissions, we have included a specific reference to highlight councils existing obligations to the Treaty of Waitangi and to provide direction to councils on how to take into account the Treaty in urban planning.

Timeframes and transitional arrangements focus on most directive policies first

- 52 All objectives and policies in the NPS would take effect immediately from the commencement date (28 days after gazettal) and would be a relevant consideration for resource consenting decisions from this date.
- 53 The proposed implementation timeframe outlined in the discussion document for when plans would need to be amended to formally embed the intensification policies was 18 months. However, both submissions and stakeholder engagement raised that more realistic and achievable timeframes to implement the intensification policies would be required.
- 54 We now consider that a staggered implementation approach to the intensification policy is preferable. This would require Tier 1 and 2 councils to notify plan changes as soon as practicable and no later than 2 years of the NPS-UD gazettal and Tier 3 councils to notify plan changes to give effect to the intensification policies as soon as practicable.

- 55 The requirements of the intensification policy will have timing and resourcing implications for Councils. We consider that a slight extension to the timeframes to 2 years for Tier 1 and 2 councils is more appropriate than 18-months because:
- At the same time as intensifying, we anticipate local authorities will need to give effect to new national direction on freshwater, indigenous biodiversity and highly productive land. A slight extension will give councils and communities more time to ensure that the plan provisions in cities are meet with the new requirements – especially in relation to water quality and urban biodiversity.
 - The capacity of councils, resource management professional and the courts across New Zealand to implement intensification policies and other national direction will be stressed
 - Descriptive elements of the intensification policy requirements will require significant groundwork to implement
 - Councils may need time to socialise this policy with their communities.
- 56 The above reasons do not apply to carparking policies, as these are to be removed from plans without using the process in Schedule 1 of the RMA. Therefore, we recommend that Tier 1 councils have 18 months to remove minimum car parking rules, as proposed in the discussion document. The 18 month timeframe is to ensure councils and communities have sufficient time to develop car parking management plans to manage effects of car parking in other ways.
- 57 We also recommend that the deadline for preparing or reviewing an FDS be linked to informing the 2024 Long Term Plans (LTPs). This is because local authorities because gazettal of the NPS-UD in July 2020 does not allow sufficient time for local authorities to develop the FDS to inform 2021 LTPs. Additionally, this will focus implementation in the short term on giving effect to the intensification policies and car parking policies that are likely to substantially increase development capacity.
- 58 We recommend that HBAs must be updated every three years and that Tier 1 and 2 councils would be required to complete the housing assessment aspect of the Housing and Business assessments by July 2021 and the full Housing and Business assessment (including business assessment) in time to inform council's 2024 long-term plans. This approach recognises the short time frame to update HBAs following gazettal of the NPS-UD and the pressing issues with housing development capacity. It will ensure up-to-date information is available to give effect to the development capacity requirements of the NPS-UD. This approach also allows councils more time to develop internal capability to carry out robust business land assessments (under the NPS-UDC, all councils engaged external consultants to carry out this aspect of the first round of HBAs, with varying results).

Targeting Geographic Application of the NPS-UD considers new census data

- 59 We have reassessed the targeting of policies in the NPS-UD based on Statistics NZ population size and growth rates made available in December 2019. This data suggests several urban areas will be facing housing pressures that may benefit from more directive policies targeted at Major Urban Centres. In determining this allocation of urban areas we have considered the capability and resource impact on local authorities, the benefits of implementation versus cost, and the scope of what was originally consulted. We have then supplemented this with targeted engagement with some local authorities.
- 60 We consider that the NPS-UD should move from the two-tier approach (Major urban centre and all urban areas) to a three-tiered approach more in line with that currently in place under the NPS-UDC. The tiers and policies that would be applicable are outlined below:

Tier 1	Policies that apply
<ul style="list-style-type: none"> • Auckland Council • Christchurch City Council, Selwyn District Council, Waimakariri District Council, Environment Canterbury Regional Council • Wellington City Council, Lower Hutt City Council, Kapiti Coast District Council, Porirua City Council, Upper Hutt City Council, Greater Wellington Regional Council • Hamilton City Council, Waikato District Council, Waipa District Council, Waikato Regional Council • Tauranga City, Western Bay of Plenty District Council 	<ul style="list-style-type: none"> • HBAs • FDS • Directive intensification policies • Removing minimum carparking • Detailed assessment of 'take-up' in intensified zones • All policies listed in Tier 3
Tier 2	Policies that apply
<ul style="list-style-type: none"> • Hastings District, Napier City, Hawkes Bay Regional Council • Nelson City, Tasman District, Whangarei District, Northland Regional Council • Palmerston North City, Horizons Council, New Plymouth District, Taranaki Regional Council • Rotorua District Council, Bay of Plenty Regional Council • Dunedin City, Otago Regional Council • Queenstown-Lakes District Council, Otago Regional Council 	<ul style="list-style-type: none"> • HBAs (simpler provisions to match capability) • FDS • All policies listed in Tier 3.
Tier 3	Policies that apply
<p>All urban environments: population greater than 10,000</p>	<ul style="list-style-type: none"> • Provide sufficient development capacity to meet demand • Well-functioning urban environments • Responsive planning policies • Enable greater density of urban form in locations with good public transport accessibility • Amenity provisions • Reflecting the Treaty of Waitangi • Monitor housing market indicators

- 61 Despite a relatively small population, Queenstown was originally identified as a major urban centre in the discussion document because of its high population growth. However, due to the unique nature and spatial extent of Queenstown's urban environment, we now recommend that it be included in Tier 2.
- 62 Queenstown does not have a large metro centre and, while their housing pressures are significant, they are highly influenced by different factors than other Tier 1 councils, such as the tourism sector, prevalence of Airbnb and a highly mobile temporary workforce.
- 63 The role of Queenstown's surrounding natural landscape in supporting the tourism economy also uniquely impacts their options in terms of managing growth. Tier 2 status will require Queenstown councils to focus on strong evidence-based planning practice through the FDS and HBA requirements, while not applying the same directive policies as other Tier 1 councils.

The section 32 evaluation and CBA support key policy recommendations

64. An evaluation of the proposed approach was carried out under section 32 of the RMA by Beca (Annex C). The level of detail included in the report corresponds to the scale and significance of the changes.
65. The report identifies and analysis various options for key policy proposals for the NPS-UD. It also provides a summary assessment of the preferred options, including the degree to which they are likely to improve the effectiveness and efficiency of the NPS-UD objectives. The report concludes that:

Overall, it is considered that the set of preferred policies, combined, are the most appropriate in assisting local authorities to carry out its functions for the purpose of achieving the RMA's sustainable management purpose. Further, the benefits outweigh the costs, and there are considerable efficiencies to be gained from adopting the preferred policies. The risks of acting are also clearly identifiable and limited in their extent.

66. A cost benefit analysis was also undertaken as a key input to the s32 analysis (Annex D). That analysis was undertaken by PricewaterhouseCoopers and focused on six key policy areas: intensification, responsive planning, minimum car parking, Housing and Business Assessments, Future Development Strategies, and targeting. One key conclusion of the CBA is that competitive land markets are supported through greater land use flexibility. Further:

the potential benefits of flexible urban policy include higher productivity and wages, shorter commute times, lower housing costs, and more competitive urban spaces. Policy benefits especially accrue to lower socioeconomic groups and future generations. New Zealand's cities would also be better equipped to respond to a range of urban problems, from changing patterns of wealth inequality and housing affordability, to climate change and urban sustainability.

The NPS is appropriate in achieving the purpose of the RMA

67. We consider that the proposals as recommended, are a relevant matter of national significance under section 45 of the RMA and will help to achieve the purpose of the RMA. Planning decisions have significant impacts (some with national implications) on the well-being of people in urban areas and the environment. As demonstrated in the CBA, the costs and benefits of planning decisions are compounded in bigger cities.

Ministers' Foreword will support greater clarity of the NPS-UD

68. We have attached a Ministers' Foreword to accompany the NPS-UD (Annex F). Based on MfE legal advice, the Ministers' Foreword would not be included in the text of the NPS-UD as notified in the Gazette. However, it would be included in the published and formatted version of the NPS-UD available on MfE and HUD's websites.
69. MfE considers the inclusion of Preambles in existing national policy statements has in some cases reduced the clarity of these NPSs. For example, parties to legal proceedings have cited the 'open-textured' language in Preambles and used this to undermine the intended meaning of objectives or policies in the body of the NPS. MfE is also coordinating drafting of all NPSs being processed across government so they are consistent and more aligned to the standard format of regulations across government. Preambles are not a feature of standard regulations drafted by the Parliamentary Counsel Office.
70. Including a separate Ministers' Foreword enables key policy messages about the Government's position on urban development and the NPS-UD to be communicated, while still support the coordinated approach to drafting NPSs.
71. We are also seeking Crown Law advice on using a Ministers' Foreword rather than a preamble.

The NPS-UD proposals uphold settlement commitments

72. As a decision-maker under the RMA, some settlement acts require you to have particular regard to certain matters when making decisions on the NPS-UD proposals. These matters have been highlighted for your consideration in the recommendations report. We have assessed relevant Treaty settlements in relation to provisions in the NPS-UD, as outlined in the recommendations report. We consider that the NPS-UD is not inconsistent with these Acts and will not restrict local authorities and iwi/hapū from implementing relevant Treaty Settlement Act obligations in their regions, district and rohe.
73. In particular, we have been mindful that our recommendations uphold and strengthen Te Tiriti in urban planning, while allowing local authorities flexibility in managing their local arrangements (including future arrangements) and working with iwi and hapū to determine appropriate implementation.

Interactions with other national direction

74. We have been working across the suite of national direction being developed to ensure consistency in approach. Some outstanding tensions are still being worked on by officials, particularly in relation to proposed national direction on Highly Productive Land and the NPS-UD. We are currently engaging with the Highly Productive Land project team and the urban growth partnerships function to test how these two NPSs and spatial plans are consistent or conflict. We intend to provide advice to you and the Minister for Primary Industries ahead of a meeting in April.
75. Officials at HUD have also engaged with the MfE regarding the urban impacts of the Freshwater Package. These conversations have resulted in agreement to change elements of the Freshwater policy, although drafting of these changes is yet to be seen. Notable changes include:
- All activities that would result in stream loss are now treated as discretionary activities, with an inbuilt hierarchy of management to minimise impacts.
 - Stream values to urban areas will now be recognised beyond ecosystem health and should now consider other uses important in an urban context, including amenity and stormwater.
76. Officials will continue to work to ensure national direction is consistent and we will provide you with further advice on this matter in April. Minor amendments to the wording of the draft NPS-UD may be undertaken prior to reporting to Cabinet on the basis of this advice.

Response to the Technical Advisory Panel's letter of 14 February 2020

77. Officials undertook significant work with the Technical Advisory Panel throughout the policy development process and found this very useful as a critique of initial policy recommendations, to road test the proposals against real world scenarios, and to highlight any potential legal implications. The Panel's comments and recommendations have been incorporated into the recommendations report.
78. The Panel have provided you with a letter attached to this report (Annex G) that provides an overall assessment of the NPS-UD and includes observations on the process followed for its development. The letter indicates support for the policy outcomes sought through the NPS-UD but notes this support can only be expressed in general terms as the Terms of Reference did not enable a review of a final draft policy. Changes to the Terms of Reference were required due to introduction of a new process for drafting national policy statements – primarily that this be undertaken by a single drafter within MfE to ensure consistency and quality across national direction.
79. The draft NPS was enhanced significantly through the input from the TAP. We consider this an opportunity to provide lessons for the establishment of external advisory groups alongside the single drafter process in the future. Specifically, the terms of reference should clarify

whether their role extends to drafting or whether their role is focused on providing feedback on policy intent.

80. The Panel also consider there would be value in releasing a draft NPS-UD for public comment, rather than using a single stage process to prepare the NPS (s46A of the RMA). We note the Panel's feedback on the use of s46A and will draw on this feedback when we are advising Ministers in future about which process to follow when preparing National Policy Statements.
81. The Panel also noted concern that elements of the draft NPS-UD provisions have changed in substance from the discussion document proposals. There is no legal requirement to consult on a draft NPS-UD. However, we have carried out further targeted consultation in February and March with councils to mitigate this risk.
82. As this letter is written to Ministers, we will prepare a draft reply to the Panel for your consideration following any feedback you may have on their letter.

Consultation

83. The Treasury, Department of Internal Affairs, Ministry of Transport, Te Arawhiti, Ministry for Primary Industries New Zealand, Te Puni Kōkiri, Ministry of Social Development, Kainga Ora, Ministry of Culture and Heritage, Office for Disability Issues

Next steps

84. We will seek guidance from your offices on timetables for next steps, considering your current priorities.
85. Our initial intention is to seek sign-off of recommendations in this report by 10 April to meet gazettal timeframes in July 2020 and to follow the usual conventions for ministerial feedback through the cabinet paper process.
86. Advice from our urban growth partnership function team is that we should share the draft NPS-UD with relevant councils involved in growth partnerships as part of the UGA, to ensure alignment. Should you agree, we will share the draft NPS-UD with councils involved in growth partnerships for their information prior to cabinet reporting.

Annexes

- Annex A – Summary of recommendations
 - Annex B – Recommendations Report
 - Annex C - Section 32 Analysis
 - Annex D - Cost Benefit Analysis
 - Annex E – Draft NPS-UD
 - Annex F - Ministers' Foreword
 - Annex G – Technical Advisory Panel letter
 - Annex H – Competitiveness margins analysis
- Annexes A-F have not been released as their final versions are available on the Ministry for the Environment website