INTRODUCTION

1. Forest & Bird is New Zealand’s largest and longest-serving independent conservation organisation, with many members and supporters. Its mission is to be a voice for nature, on land, in fresh water, and at sea, on behalf of its members and supporters. Volunteers in 50 branches carry out community conservation projects around New Zealand. It has nine branches in the Auckland region alone.

2. In support of the society’s objectives, it has been involved in resource management processes around New Zealand for many years, at the national, regional, and district level. It routinely submits on regional and district plan provisions, and advocates in the Environment Court in relation to plan provisions relating to indigenous biodiversity, landscape and natural character and some resource consents. It is particularly interested to ensure that the environmental
bottom lines established in national policy statements in order to give substance to the “protective" element of Part 2 of the RMA are given effect to in regional and district plans.

3. It is therefore particularly interested in how the National Policy Statement on Urban Development will ensure that those matters of national importance are protected, and how the provisions of the NPSUD will impact on councils’ functions to maintain indigenous biodiversity.

4. Forest and Bird does not take a position of overall support or opposition to the NPSUD. We have set out our comments and concerns generally following the headings of the Discussion Document on the following parts of the NPSUD:

   a. Overall and general comment
   b. Section 3
   c. Section 4
   d. Section 5
   e. Section 6
   f. Section 8
   g. Section 10.

OVERALL AND GENERAL COMMENT

5. In general, Forest & Bird would support provisions of an NPS-UD that promote intensification – on the grounds that this:

   a. Can reduce loss of land and indigenous biodiversity to greenfields developments
   b. Will reduce carbon emissions by reducing commuting distances and promoting uptake of low emission transport options
   c. Could support the upgrade of performing poorly historic infrastructure, e.g. deteriorated and leaking freshwater pipes, overloaded sewerage/waste water systems that overflow into freshwater bodies.

6. However, Forest & Bird is concerned by the lack of explicit provisions in the NPS-UD to ensure urban development, including intensification, is undertaken in an environmentally sound manner or to protect indigenous biodiversity. Urban development can cause a wide range of
adverse effects on indigenous biodiversity and other natural values. These effects, both individually and cumulatively, must be adequately considered and avoided, remedied, or mitigated as appropriate.

7. In addition to recognising the intrinsic value of indigenous biodiversity and healthy ecosystems, ensuring urban development adequately protects nature will also have benefits for the wellbeing of urban dwellers, and the natural resilience of the urban environment to climate change and the consequential increase in hazards such as flooding and erosion.

8. We are concerned that simply referencing the need to consider other national direction, including the proposed NPS & NES FW, draft NPSIB and the NZCPS, does not provide sufficient certainty that they will be taken into consideration. Furthermore, we believe that inclusion of specific directions regarding environmental protections will help to reduce interpretive conflict between other NPSs and the NPS-UD.

9. We are concerned that a range of natural values will not be appropriately considered and protected under the NPSUD. While the document mentions avoiding development in certain areas (e.g. in P1D(a)), it is not clear that this will actually be achieved by the NPSUD. While we support spatial planning, this must be done with a comprehensive understanding of the natural values in a particular area, and the likely effects of different kinds of development on those values. Where such comprehensive understanding does not yet exist, the planning framework must ensure that appropriate consideration is given to natural values at all stages of planning. In our view the NPSUD creates a significant risk that appropriate consideration of the effects of development on natural values will be precluded.

10. Regional and territorial authorities have a responsibility under the Act to maintain indigenous biodiversity (s30(1)(ga) and s31(1)(b)(iii)). Giving effect to the purpose of the Act requires the preservation of the natural character of the coastal environment, wetlands and water bodies (s6(a)), the protection of outstanding natural landscapes and features (s6(b)), the protection of significant natural areas (s6(c)), and having particular regard to the intrinsic values of ecosystems (s7(d)) and to the maintenance of the quality of the environment (s7(f)).

11. This submission uses the umbrella term ‘natural values’ to encompass all of these matters. Where relevant, the more specific term ‘significant natural areas’ or ‘SNAs’ is used to refer to areas that must be protected under s6(c).

12. References to specific provisions of the proposed NPSUD are underlined. Where we seek amendments, these are set out in bold, with specific wording amendments in bold and underlined.

13. We are seeking amendments to ensure that:
a. The NPS-UD will not result in reduced protection for indigenous biodiversity or other natural values. We expect the NPS-UD to recognise that existing environmental protections will still need to be applied, even outside currently identified areas of significant indigenous biodiversity.

b. The NPS-UD will direct local authorities to consider the impacts of climate change and ensure development promotes climate resilience as well as mitigation of climate change wherever possible.

c. Intensive urban developments avoid negatively impacting on water bodies, including the sustainability of aquifers, by ensuring the natural drainage of rain water through soils is not reduced.

SECTION 3: OVERVIEW OF THE NPSUD

Targeting cities that would benefit most

14. Whether or not we support the proposed targeting approach and methodology used to determine which local authorities are categorised as major urban centres will depend on the substance of the final NPS, in particular the way in which natural values are protected under the NPSUD.

15. Assuming the NPSUD is improved to ensure that natural values are protected, a key factor that we would consider relevant for determining which local authorities should be subject to the more directive policies would be a measure of the increase in land area being used for new greenfields developments (we would support this being a trigger for greater urban intensification requirements for any local authorities with a population base above a stated threshold).

SECTION 4: FUTURE DEVELOPMENT STRATEGY

16. Forest & Bird seek the inclusion of specific requirements to protect indigenous biodiversity and other natural values, avoid impact on water bodies and to consider climate change in Future Development Strategies. We expect the NPS-UD to recognise that existing environmental protections must still be applied even outside areas of ‘significant indigenous biodiversity’ or SNAs. This is important not only for the intrinsic value of indigenous biodiversity – it is also important for the enjoyment and wellbeing of the community, now and in the future, and for climate resilience, which benefits everyone.
17. **Objective 1** includes direction to provide for ‘quality urban environments’. We note the need for the NPS-UDS to define ‘quality urban environments’ in accordance with our comments in Section 5 below.

18. We note the lack of any requirement in **Objective 1** for planning documents to provide for either the protection of indigenous biodiversity and other natural values, or requirements to ensure new developments will be suitably climate resilient (both in their location and design). We therefore request the addition of a requirement to provide for “c) protection of indigenous biodiversity and other natural values and climate resilience”.

19. **P1A** currently lacks any requirements to meet indigenous biodiversity bottom lines or ensure the climate resilience of new developments. Forest & Bird requests that an FDS should also demonstrate how the local authority will “d) protect indigenous biodiversity and other natural values”, “e) ensure the climate resilience of developments and their associated environment, through both suitable location and design” and f) protect water bodies.

20. **P1C** - We suggest adding a requirement that every FDS should be informed by “f) the latest locally relevant assessment of climate change projections and risks”.

21. **P1C** notes that ‘Every FDS must consider other national direction’. We note that there is currently no national direction on Indigenous Biodiversity. Pending development of the NPS-Indigenous Biodiversity, Forest & Bird requests the inclusion of another suitable consideration, such as “and where there is not yet national direction on a particular issue, the FDS must consider the provisions of part 2 of the Act”.

22. **P1D**

   a. P1D(a) requires identification of areas that may not be appropriate for development. As far as we can ascertain, this is not defined anywhere in the NPSUD. The Discussion Document on page 21 gives a few examples of such areas, but doesn’t mention highly values water bodies. On page 58 of the document, highly valued freshwater environments are given as an example of areas that might be avoided. We submit that the NPSUD should include a non-exhaustive definition or other binding guidance on what would trigger the requirement to avoid areas. For example: ‘a) areas where evidence shows urban development must be avoided, including (but not limited to) the presence of SNAs, flooding or climate change hazards, natural wetlands’.

   b. On a related point, P1D(a) requires that ‘Every FDS must identify a) areas where evidence shows urban development must be avoided’. However, not all councils currently have this evidence (e.g. Councils who are yet to identify their SEAs). Therefore, we submit that an FDS should require that a thorough survey of
indigenous biodiversity areas (and any other areas of natural value that should be avoided) is undertaken before any decisions are made.

c. An alternative approach would be that an FDS should identify:

i. the existing evidence base for identification of areas where development should be avoided;

ii. any gaps in this evidence base, including gaps in sufficient knowledge of local indigenous biodiversity; and

iii. how the Council intends to ensure that indigenous biodiversity and other natural values are appropriately protected in the absence of such knowledge.

d. We also suggest addition of a requirement for every FDS to identify: “aa) areas where evidence shows urban development should be subject to restrictions or requirements, for example, to ensure resilience to flooding or climate hazards, or to protect indigenous biodiversity or other natural values.”

e. P1D should also include directions that every FDS must identify:

i. “i) how the protection of indigenous biodiversity and other natural values is to be provided for in urban development”;

ii. “j) how climate change mitigation is to be provided for in urban development”, and

iii. “k) how the protection of water bodies is to be provided for in urban development”.

SECTION 5: MAKING ROOM FOR GROWTH

Describing quality environments

23. Forest & Bird supports a greater recognition of the importance of developing quality urban environments. We agree that planning decisions should also consider how urban development meets current and future social, economic and cultural needs. However, we oppose any changes in direction that weaken consideration of the effects of urban development on the natural environment, or reduce the need to avoid the adverse effects of development.
24. We submit that the Preamble should specifically address the importance of protecting or enhancing the natural environment as part of quality urban developments, including recognition of the importance of avoiding indigenous biodiversity loss.

   a. ‘Reducing the impact on the natural environment’ is ambiguous. First, does this solely envisage reducing the impacts that would be caused by future developments or does it include reducing existing impacts? Forest & Bird seeks local authorities to proactively improve the status quo, not just reduce the amount of harm caused in future. Second, we would be concerned if anything that constitutes a ‘reduction’ of the normal adverse effects of development could be considered acceptable as this may still potentially constitute a significant adverse effect. **Forest & Bird seeks local authorities avoid further environmental degradation.** We submit this text should be redrafted as follows “Avoiding, remedying, or mitigating as far as possible the impact on the natural environment of existing and future development”.

   b. We propose the following amendments to the proposed Preamble text:

   i. ‘promoting resilience to the impacts of natural hazards, particularly utilising nature-friendly methods’

   ii. ‘providing a range of transport options with priority given to low emission transport options’

   c. We submit that the Preamble should also include:

   i. ‘protection and enhancement of natural ecosystems and habitats, which benefits residents’ well-being and enjoyment, indigenous biodiversity and/or climate resilience’

   ii. ‘retaining or developing eco-corridors for indigenous biodiversity’

   iii. ‘minimising travel distances required for routine activities’

   iv. ‘promoting environmental and community wellbeing by ensuring shared recreational spaces and other shared spaces’

25. We submit that, in addition to Objective 2, the NPS-UD should include a legally binding definition of “quality environments” to avoid confusion or inconsistency of interpretation.

26. **Objective 2** should better reflect the Preamble – it currently only addresses the enabling aspects of providing a quality urban environment and lacks any recognition of natural environmental values and protection. We suggest including **“e) ensuring environmental impacts are avoided, remedied or mitigated and indigenous biodiversity is protected”**. We
also seek an addition to d): ‘responding to changing needs and conditions, including the mitigation and impacts of climate change’.

27. Objective 3 only talks about enabling development. It should also note the need to do this in locations and ways that avoids environmental degradation. We suggest the following: ‘To enable development in locations and in ways that maximise its positive contribution to, and minimise its negative impact on, quality urban environments, including indigenous biodiversity and other natural values’.

28. Policy 2A lacks direction to local authorities to have regard to the need to limit impact on the natural environment. We submit that both parts of P2A should include “c) limiting negative impact on indigenous biodiversity and other natural values.”

29. We also note the importance of local authorities upgrading old infrastructure as part of future urban development works to ensure that intensification or growth do not cause or increase environmental harms – for example through overflows due to capacity constraints or increased wastage via old pipes. We therefore seek for the NPS-UD to direct councils to take this requirement into account. This could be achieved by addition of direction in P2A that authorities must have regard to “c) limiting negative impact on indigenous biodiversity and other natural values, including by ensuring the capacity or condition of existing infrastructure is upgraded as necessary”.

30. Policy 2B directs local authorities to have particular regard to “the positive impacts of urban development to contribute to a quality urban environment as described in O2”. We support this focus, provided the description of the quality urban environment in O2 is appropriate, as requested above.

Amenity values in urban environments

31. Forest & Bird neither supports nor opposes inclusion of this section.

32. However we submit that decisions that recognise changes in the amenity values of an urban environment must also uphold any applicable environmental protections and considerations. For example, vegetation clearance to enable new amenity values should only be approved where the vegetation does not contain important indigenous biodiversity values.
**Enabling opportunities for development**

33. Forest & Bird’s concern is again, that Councils are being required to provide for development, in a context where natural values are not adequately protected. Councils will be required to set bottom lines for development capacity, whereas no such directive requirement exists to ensure environmental bottom lines are met.

34. Page 31 of the Discussion Document talks about requiring ‘local authorities to allow more opportunities for development in their plans. This requirement is intended to recognise that only a portion of the development that is enabled will occur.’ Coupled with the proposed policies that will require that RMA plans do not restrict development in certain areas that have been tagged for development (see P5A and B) this raises a concern, in that even more land than is actually needed may be left without appropriate safeguards for indigenous biodiversity.

35. The provisions in this proposal are very directive, and again create a real risk that environmental effects will not be adequately managed.

36. O5 is very directive, using the words ‘ensure’ and ‘enable’. It is also silent on what other considerations may be relevant in providing opportunities for development. **We seek the following amendment:**

    O5: To ensure local authority policies, plans and strategies enable enough opportunities for development to meet diverse demands for housing and business land where natural values can be appropriately protected and provided for.

37. P4A and P4D are silent on the need to provide development capacity within environmental limits. For example, P4A requires that Councils *must* provide development capacity. It is a directive policy that must be given effect to in district and regional plans. However, unless there is a similarly directive policy about ensuring that development does not contribute to further indigenous biodiversity degradation, this policy should specifically state that the requirement to provide development capacity must happen within environmental limits. **We therefore seek:**

    P4A: Local authorities must ensure at all times their plans enable at least enough development capacity that is feasible and likely to be taken up to meet the demand for dwellings (in terms of location, typology and price) and business land (in terms of location, floor area and extent of land) over the short, medium and long term. Local authorities must also ensure that their plans appropriately protect and provide for natural values, and that the provision of development capacity does not override this requirement. A local authority meets these obligations by ensuring:
a) Short term – that the development capacity is enabled by resource management plans and serviced with development infrastructure, and that those plans require the appropriate protection of natural values

b) Medium term – that the development capacity is enabled by resource management plans, and that those plans require the appropriate protection of natural values, and either:

   i. is serviced with development infrastructure, or

   ii. the funding for the development infrastructure required to service that development capacity must be identified in a Long Term Plan required under the Local Government Act

c) Long term – that:

   i. the development capacity is identified in all relevant plans and strategies (including the FDS) and the requirement to appropriately protect natural values is also identified

   ii. the development infrastructure required to service it is identified in the relevant Infrastructure Strategy required under the Local Government Act 2002.

P4D: Every local authority must set bottom lines for the total amount of development capacity it must provide to meet the demand (as determined under the most recent HBA) for dwellings. These bottom lines must ensure that natural values are appropriately protected. Bottom lines must:

   a) be set for both the medium term and the long term

   b) be reviewed every three years.

38. P4G is also very concerning, as it would mandatorily require Councils to make further changes to their RMA plans to enable development. Once again, this policy is silent on providing additional capacity while still ensuring that the environmental effects are acceptable. We therefore seek the following amendments:

P4G: If an HBA or any other evidence or monitoring indicates that there is inadequate development capacity, the local authority must:

   a) consider all options (under any legislation) to enable development, such as integrated and coordinated consenting processes
b) consider increasing development capacity by changing policy statements and plans, including changes to zoning, objectives, policies, rules and spatial layers that apply in existing urban environments and greenfield areas, where natural values can be appropriately protected

c) if the inadequacy relates to the long term, update its FDS

d) consider all other options for increasing development capacity and when considering or taking any options for increasing development capacity, ensure that natural values are appropriately protected.

Ensuring plan content provides for expected levels of development

39. Forest & Bird is very concerned at the risks for natural values in this proposal. While we support the concept of spatial planning, the approach proposed in the NPSUD will mean that essential safeguards for natural values are removed.

40. This proposal would require district plans to include zone descriptions for each urban zone, which describe the expected types and nature of development within that zone, consistent with growth identified in an FDS. District councils would then be required to ensure that the provisions applying to that zone were consistent with the expected development for each zone, and councils would be required to enable development as described in the plan.

41. There are several issues with this approach.

42. Firstly, the levels of expected development are based on the FDS (P5A), which itself is not required to appropriately consider indigenous biodiversity and other natural values. As discussed above, the FDS needs to specifically acknowledge that development must only occur where natural values can be appropriately protected.

43. Once an area is zoned for development, the provisions do not leave room for consideration of the effects on indigenous biodiversity and other natural values. P5A and P5B are very directive provisions, solely focussed on enabling development, and are likely to preclude appropriate consideration of natural values.

44. In our experience, zoning is often done at a stage where only high-level knowledge of likely effects on the natural values of an area is available. Detailed consideration of the natural values of a zone, and how to manage effects of development on those values, often only comes at the consenting stage.
45. This approach is acceptable where the decision-making regime provides for thorough consideration of natural values. For example, a residential zone may include identified significant natural areas and accompanying protective policies, which ensure that those SNAs are appropriately protected despite the ‘residential’ zoning. Objectives and policies applying to the zone should also ensure that other natural values are considered and appropriately protected e.g. consideration of stormwater measures on waterbodies, how non-SNA areas provide for connectivity and buffering functions, and the impacts of sediment on aquatic habitats. In that scenario, although a zone may be described for a residential use, natural values are still appropriately considered and provided for.

46. The Discussion Document states that the zone descriptions should be consistent with the National Planning Standards. We note that the zone descriptions use the word ‘predominantly’ before describing the intended uses of the zone. For example, the Medium Density Residential Zone reads: ‘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.’ Using ‘predominantly’ suggests that other values or uses may need to be considered in that zone.

47. However, when combined with the very directive language of the NPSUD provisions, this is likely to mean that natural values will not be able to be appropriately protected.

48. P5A will apply immediately, and requires the zoning and describing or urban zones in district plans. As noted above, this must be based on the FDS. If the FDS had appropriate parameters around ensuring that natural values were safeguarded, this policy in and of itself would be more acceptable. Additionally, we seek that P5A be amended as follows:

a. P5A District plans must include, for each zone in an urban area, a zone description that describes the expected types and nature of development, [including expected levels of amenity], consistent with growth identified in the FDS. The zone descriptions must make clear that they do not override provision for natural values.

49. Alternatively we seek that the zoning required by P5A only occur once a comprehensive assessment of the natural values of the zone has been carried out. The draft NPSIB is relevant for the identification of SNAs in this regard, but there are likely to be other natural values that need assessing e.g. outstanding water bodies under the NPSFM.

50. P5B is also very directive, and requires that all provisions of the district plan are consistent with the expected development for each zone as set out in the zone description. If the zone description were to make it clear that an integral part of sustainable development is the protection of natural values, then this may be acceptable. However, the zone descriptions in the Planning Standards do not make this clear. They are silent on how natural values are to be treated.
51. Under PSB(a), a Council would need to assess any plan policies applying to the zone. There may be a policy that for example, protects SNAs. Arguably, that policy would be inconsistent with enabling development as described in e.g. a General Residential Zone, which is described as ‘Areas used predominantly for residential activities with a mix of building types, and other compatible activities.’ The strong, directive language of PSB would require the Council to identify such an SNA policy as inconsistent, and then, in accordance with PSB(b), it would be required to change that provision so as to enable development.

52. Overriding the protection of SNAs is one scenario, but it is even easier to imagine Councils being required under PSB to remove policies that protect natural values in less obvious ways. For example, a policy requiring the consideration of the connectivity and buffering functions of non-SNA areas is not as straightforward to apply, and is likely to require a different kind of analysis than simply avoiding identified SNA areas. We note that the draft NPSIB talks about the maintenance of indigenous biodiversity requiring more than simply protecting SNAs (this will be discussed in more detail in Section 10). Having to consider those kinds of matters is again, very likely to fall foul of a mandatory NPSUD policy that directs that development must be enabled.

53. In our experience, plan policies relating to the protection of natural values are never stated in such a directive, mandatory way (with the exception of policies that give effect to Policy 11 NZCPS). Indigenous biodiversity policies typically at best require ‘avoidance where practicable’ of adverse effects. Where a biodiversity policy did survive the assessment required under PSB(a), under PSB(b) a Council would be faced with a mandatory directive national level policy requiring that development is enabled, and a far less directive clear protective biodiversity policy. It is highly likely in this scenario that protection of indigenous biodiversity would be afforded the lesser priority.

54. In short, the exclusive direction on enabling development in particular zones means that consideration of the effects of development on natural values is unlikely to be able to occur.

55. Finally, the timing of these provisions coming into force (immediately/at next plan review) exacerbates these problems. The FDS (see PD1(a)) very briefly mentions ‘areas where evidence shows urban development must not occur’. What will be required to be included in district plans under PSA and PSB is based on the FDS. That appears to be the sole safeguard for natural values, and is predicated on an assumption that all councils will have evidence about areas that should not be developed. We presume that those areas might be SNAs, or outstanding water bodies (yet to be identified as part of the NPSFM), or other areas important for the maintenance of indigenous biodiversity.

56. However, given the very short timeframes many councils will not have time to adequately assess the values of each zone, such that they can set out how development should occur
while still appropriately providing for those natural values. In particular, many councils have not yet identified significant natural areas. Some councils have said that resource constraints make such comprehensive reviews difficult. The draft NPSIB provides for all councils to undertake this work, but over a period of 5-6 years.

57. Even if all councils had already undertaken comprehensive SNA reviews, indigenous biodiversity protection does not simply mean avoidance of significant natural areas. As discussed in Section 10, the draft NPSIB makes it clear that in order to fulfil their duties under the RMA, councils need to protect indigenous biodiversity in significant natural areas and in other places. The draft NPSIB goes beyond s6(c) of the RMA in that it has policies addressing the management of the effects of subdivision, use and development beyond as well as within SNAs. It also mentions that some activities have the potential to impact on SNAs even if they occur outside them. E.g. subdivision for urban and rural-residential purposes which, if it occurs close to vulnerable fauna habitat, can have adverse effects through increased pressure from people, their pets and vehicles.

58. Given all of these problems, in our view the approach set out in P5A and P5B is contrary to the sustainable management purpose of the Act.

59. We have set out the relief sought for P5A above. **We also seek that P5B be amended:**

   **P5B: Territorial authorities must:**

   a) make 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, provided that objective, policies and rules that protect or manage natural values must be retained

   b) enable the development of the zone to occur as described in the plan, where natural values can be appropriately protected

   c) monitor and report on whether development is occurring as described in the plan as a component of section 35 efficiency and effectiveness monitoring.

60. **O6** requires that local authorities make urban development decisions (including zoning decisions, presumably) on the best information available. As discussed, the problem is that a lot of Councils do not yet have the best information available on the indigenous biodiversity in their area, and this information can change over time, as e.g. birds begin to use different pathways between patches of habitat. **We therefore seek the following amendments:**
06: To ensure local authorities:

a) make decisions on urban development based on the best available evidence, including evidence on natural values, and (either)

where comprehensive evidence on natural values is not yet available, ensure that the planning framework requires consideration and protection of natural values (or)

where comprehensive evidence on natural values is not yet available, delay making decisions on urban development until that evidence is available.

b) respond promptly to evidence about changing demands for housing and business land

c) identify the evidence on which decisions about urban development are made.

Providing for intensification

61. In general Forest & Bird supports intensification - provided it is done properly – on the grounds that it:

a. Can reduce the need for further greenfields development and therefore reduce loss of land and indigenous biodiversity

b. Will reduce carbon emissions by reducing commuting distances and promoting uptake of low emission transport options

c. Could support the upgrade of performing poorly historic infrastructure, e.g. deteriorated and leaking freshwater pipes, overloaded sewerage/waste water systems that overflow into freshwater bodies.

62. However this position is contingent on intensification being done in a manner that avoids causing other negative environmental and indigenous biodiversity impacts, including ensuring:

a. The development retains or creates sufficient green spaces for residents’ wellbeing and recreational use, as well as habitat and eco corridors to support indigenous biodiversity;

b. Habitat loss and fragmentation and edge effects (both inside and outside SNAs) are no more than minor;
c. There is no overall loss of existing and potential ecological connections between habitat areas;

d. The increase in demand for freshwater can be sustainably met without creating increased adverse effects on natural values;

e. The increase in sewage, greywater and contaminant run-off generated can be managed without creating increased adverse effects on natural values;

f. Increased stormwater run-off as a result of increased hard surface areas can be managed without creating increased adverse effects on natural values;

g. The impact of any resulting sedimentation of waterways has no more than a minor impact on aquatic habitat;

h. The impacts of roading and other infrastructure associated with the development on the environment can be adequately managed;

i. Other pollutants and contaminants, such as heavy metals, do not harm freshwater and coastal marine ecosystems; and

j. Biosecurity issues, such as the introduction of pests that could adversely impact on adjacent indigenous biodiversity and ecological values, are adequately managed.

63. Forest & Bird does not consider that the proposed policies do enough to ensure that intensification will fully achieve the desired benefits while avoiding environmental harms. For example, the NPS-UD should recognise that existing infrastructure has limits and retrofitting, for example, stormwater solutions, to accommodate more load can be difficult or impossible.

64. P6A directs local authorities to enable higher-density development in certain areas, for example where there is high demand. However, the policy is again silent on the need to do this within environmental limits. As previously noted, we submit that the NPS-UD should not solely rely on other national direction to provide environmental safeguards - particularly where those directions have not yet been introduced. As such, we seek the following addition at the end of P6A:

‘provided that development should only be enabled where indigenous biodiversity and other natural values can be appropriately protected.’

65. P6A – we submit that higher-density development should be prioritised in areas where urban amenities and services, and many employment opportunities, are easily accessible by existing or planned public transport networks. We would support addition of a policy
direction to this effect on the basis that it would preferentially support intensification that
will have the greatest impact on reducing carbon emissions.

66. **Forest & Bird does not support P6B, and seek its deletion.** This objective is very directive,
and is silent on the need to ensure that natural values are protected where development is
enabled. It would override the usual range of considerations that support sustainable
management. **If this policy is to remain, the Objective should be amended to include
‘where intensification can occur in a way that protects indigenous biodiversity and other
natural values.’**

**Providing for further greenfield development**

67. Forest & Bird opposes the inclusion of a policy providing for plan changes for out-of-
sequence greenfield development and/or greenfield development in locations not currently
identified for development. There are a number of reasons for this.

68. Greenfield development by its nature has the potential to cause new adverse effects on
natural values (as acknowledged in the Regulatory Impact Statement on page 15). As such,
we oppose any policies that would narrow the consideration of matters that should be
required before greenfield developments can proceed.

69. The Discussion Document states that the conditions set out in the proposed policy ‘are not
intended to override or replace the consideration of environmental effects through a usual
plan change process – those considerations must still take place’. That begs the question of
why a policy providing for greenfield development is necessary in the first place. In our view,
it is not. Greenfield development out of sequence can already happen under the usual
planning process, which includes all the appropriate checks and balances of the RMA (and
the plan itself).

70. The risk of trying to capture all the RMA or plan provisions that would otherwise apply to a
plan change in one policy (as is proposed on page 39 of the Discussion Document) means
that some factors that would normally be considered will be missed. For example, paragraph
(b) of the example policy talks about avoiding adverse effects on protected areas or areas
identified for restoration. This submission has repeatedly pointed out the dangers in basing
a biodiversity protection approach solely on those areas that are identified – many councils
have not yet identified such areas, information can change over time as to what kinds of
areas should be identified, and where plans do identify biodiversity areas, they typically will
only identify those that meet s6(c). As discussed elsewhere, the responsibilities of territorial
and regional authorities to maintain indigenous biodiversity extend beyond protecting only
certain significant areas.
71. A far more appropriate approach is to apply the plan provisions in the normal way. This approach considers all relevant aspects of sustainable management, in accordance with the requirements of the Act.

72. The example policy is also likely to conflict with other national guidance. For example, Policy 11 of the NZCPS requires avoidance of adverse effects on certain aspects of indigenous biodiversity. Some aspects of policy 11 are difficult to fit into a ‘protected areas’ paradigm. Policy 11 requires that adverse effects on threatened or at risk taxa are avoided. For highly mobile species, a different approach than solely delineating an area of habitat on map may be required. However, the example policy relies on avoidance of ‘protected areas’, and would therefore not allow consideration of other methods of ensuring that threatened taxa are protected.

73. The directive nature of the policy, combined with the narrow focus on only selected aspects of sustainable management, means that the Councils would be directed to make plan change decisions that may not accord with the purpose of the Act.

74. We are also concerned that this proposal has not been adequately assessed by the Government. The Regulatory Impact Statement (page 7) makes this clear:

Further direction was provided at a late stage to broaden the scope of the proposed content for the NPS-UD to also include direction on greenfield development as well as intensification. These additions have not been analysed through a regulatory impact analysis process and are not reflected explicitly in the problem definition, options identification and analysis or recommendation. However, we consider that it is appropriate to think about in the broader context of an urban development NPS that aims to promote quality outcomes—particularly given the interactions between urban development and other national direction being consulted on in a similar timeframe (e.g., highly productive land, fresh water management and indigenous biodiversity).

With the exception of the greenfield policy proposal, there is plenty of evidence for the problem, causes and consequences including the scale and distribution of these.

75. While including a mandatory policy on enabling greenfield development will likely increase development, on our view it would do so in a way that was inconsistent with the purpose of the Act. In our submission, the NPSUD should not include any polices on greenfield development at this stage.

76. In our view this proposal also is out of step with the rest of the NPSUD. On the one hand the Councils are being required to hastily provide land for development where they think that will be appropriate (which, as we have submitted, needs to have more safeguards put in place). On the other hand, outside of that mandatory planning process, Councils will also be
mandatorily required to allow greenfield development (where a selection of conditions are met). In our view this cuts across the spatial planning focus of the NPSUD.

77. Greenfields can still be provided for, but with the normal checks and balances of the normal planning process.

78. **Accordingly we seek that the NPSUD does not include a policy enabling greenfield development.**

**Removing minimum car parking requirements**

79. Forest & Bird supports this policy because it reinforces a shift away from urban centres that assume and plan around widespread reliance on personal motor vehicles. Removal of rules or standards requiring car parking is progressive and in line with the imperative to shift towards greater reliance on public transport networks if New Zealand is to meet its carbon emission targets. This policy would also have a valuable signalling effect regarding the future of transport in New Zealand.

80. Forest & Bird agrees with the stated costs for environmental, social and economic well-being of existing requirements for car parking. We are particularly concerned about inefficient land use, increased greenhouse gas emissions from more car use, cheap parking subsidising car use relative to other transport modes, missed opportunities to retain or develop green spaces, increased issues for stormwater management and water quality due to more impermeable surfaces and contaminant run off.

81. Given the value in avoiding these costs, Forest & Bird would support Option 2. Option 1 may have unintended consequences, such as on the provision of accessible car parking or by limiting approaches to encourage car share services or EV uptake. Option 3 would miss an opportunity to avoid the costs of excessive car parking more widely across urban centres. As the discussion document notes, this approach does not preclude developers from providing car parking.

**More directive intervention to enable quality urban development**

82. Forest & Bird neither supports nor opposes the proposed approach, with the caveat that rules protecting biodiversity must not be circumvented as simply ‘unnecessary constraints’. For example, a requirement for residential houses to have a rainwater tank is intended to address the inability of stormwater systems to cope with increased load as a result of development, which in turn reduces negative impacts on freshwater bodies and coastal areas.
83. However, we see environmental benefits in removing certain rules, namely:
   a. Removing restrictions that limit upward development in certain areas – this enables intensification and therefore may enable less overall environmental impact than other kinds of development (provided the local infrastructure is appropriate and any other environmental impacts are avoided, minimised or mitigated).

84. We also have concerns about the environmental impact of removing certain rules, namely:
   a. Site coverage rules limiting the amount of a property that can be covered by buildings – this has negative implications for stormwater management, indigenous biodiversity, and potentially the health of underground aquifers (which are fed by rain water via soils).

85. We note that any future proposals to intervene in the planning system will need to consider their potential impacts.

SECTION 6: EVIDENCE FOR GOOD DECISION-MAKING

Using market information to make decisions

86. Forest & Bird is neutral on this proposal in general. However, we submit that caution should be taken with using demand to determine the location of new development. For example, it would be irresponsible to plan for more growth in coastal areas, even though current demand is very high.

SECTION 8: TIMING

87. Our key timing concerns are discussed above in the section on ‘Ensuring plan content provides for expected levels of development’. The very directive provisions in the NPSUD about enabling development, without further safeguards for natural values, are exacerbated by the very short timeframes within which the NPSUD policies will apply. While we appreciate the urgency of action that the housing shortage demands, as the NPSUD currently stands, this will mean important safeguards for natural values are overlooked.

88. As also mentioned elsewhere in this submission, the short timeframes for giving effect to some of the NPSUD may conflict with other national direction, for example, the draft NPSIB suggests a timeframe of 5-6 years for Councils to identify SNAs in their plans. As submitted above, identification of SNAs (and other natural values) needs to happen before zoning is
undertaken, or, the planning framework applying to zones needs to ensure that adequate consideration must be given to natural values.

89. Accordingly, we seek that either:

a. the objectives and policies of the NPSUD are amended in line with our above submission points, or

b. that the objectives, and the policies on quality urban environments, enabling opportunities for development, ensuring plan content provides for expected levels of development, P6B and P6D are delayed until the identification of natural values (such as envisaged under the draft NPSiB, and the NPSFM) has occurred.

SECTION 10: ALIGNMENT WITH OTHER NATIONAL DIRECTION UNDER THE RMA

90. Forest & Bird is concerned that some aspects of the NPSUD contradict, or may undermine, other national direction. While local authorities have to give effect to all national direction in their plans, the nature and content of some of the provisions of the NPSUD will mean that they could ‘trump’ other national direction. Additionally, the respective timing of when various parts of the national direction come into force may be inconsistent.

91. The FDS proposal includes identification of areas that may not be appropriate for development. As far as we can ascertain, this is not defined anywhere in the NPSUD. The Discussion Document on page 21 gives a few examples of such areas, but doesn’t mention highly values water bodies. On page 58 of the document, highly valued freshwater environments are given as an example of areas that might be avoided. As noted above, we seek a non-exhaustive definition explaining what is intended to be covered in P1D(a). It should be non-exhaustive to allow Councils to provide for areas that may be specific to that district.

92. Potentially a more serious problem is that while the policies of the NPSUD will apply within a very short timeframe, highly valued waterbodies under the NPSFM has not yet occurred, and will likely take time. In the meantime, the very directive enabling policies of the NPSUD will apply, and in their current form, will not be required to take into account any as-yet-unidentified valued water bodies.

93. Similar issues arise with the draft NPSiB. Policy 4 of the NPSiB requires councils to identify significant natural areas – these are the kinds of areas that presumably would be avoided in the FDS. However Policy 22 gives councils 5-6 years to undertake this work. As discussed above, in the meantime there will be very directive enabling provisions that are likely to leave unidentified SNAs unprotected.
94. Policies 11, 14, 18, and 19 of the draft NPSIB all address the fact that in order to maintain biodiversity in accordance with s30/31, more than protection of SNAs is required. In contrast, the sole protection for indigenous biodiversity in the NPSUD is via the avoidance of certain areas, which are likely to only be those that are identified as meeting s6(c).

95. There will also be difficulties with applying the NPSIB alongside the very directive enabling provisions that, as currently worded, require councils to enable development without consideration of environmental effects. For example, policy 11 of the draft NPSIB would likely be overridden by the NPSUD policies requiring that development is enabled.

96. The numerous apparent conflicts with the draft NPSIB lead us to the conclusion that the NPSUD should be postponed, it can be properly considered alongside the NPSIB. We therefore seek that the NPSUD be put on hold pending consultation and consideration of the NPSIB.

97. Similar inconsistencies arise with the NZCPS. For example, policy 11 directs that adverse effects on aspects of biodiversity in the coastal environment are avoided. This is likely to directly conflict with the NPSUD focus on directing development without consideration of environmental effects. We seek several amendments as set out above, to ensure that it is made clear that natural values are appropriately protected, including in accordance with the NZCPS.