Background to submission

1 The submitter has 16 years project leadership experience in land use projects, both greenfield and brownfields development, of mainly residential typologies are created or enhanced.

2 Project leadership referred to above refers to bringing together the various professional disciplines together to achieve changes in land use through appropriate resource management processes (e.g. private plan changes and district plan reviews) and subsequent Environment Court litigation via where necessary.

3 Experience referred to has been largely in the Waikato, including Hamilton, Waipa and Thames/Coromandel districts.

4 Over a continuous 15-year period, I rezoned a 102ha greenfield site owned by family interests for (large lot) residential development. This land is situated in Waipa District on the western side of State Highway 3 opposite the Peacocke development area, on the boundary of Hamilton City on the city side of Southern Links, and is readily capable of residential development offering excellent amenity; attractive outlook, elevation and contour; close proximity to all urban facilities including public transport (within 100m), schools and tertiary education facilities, hospitals, shops, medical centre, supermarkets, service station and all utilities.

5 The development site referred to in paragraph 4 above offers open space and amenity disproportionate to its developable area, to the benefit of neighbouring developable areas and the community, not recognised in any form of incentives. development contributions, likely compensation from the community or other developable areas nearby.

6 Barriers to residential development referred to in paragraph 4 above include restrictive planning rules, no cross boundary agreement between local authorities requiring the provision of infrastructure, the absence of any commitment to upgrading transport infrastructure as shown in the transport priorities (i.e. long term plans) of NZTA, Hamilton City Council and Waipa District Council.

7 Considerable difficulty/resistance has been experienced in achieving more intensive land use changes and delivering greenfield projects due to:
   a. Inflexible district plan provisions that constrain growth and are unable to respond quickly enough to meet the needs of society and deliver housing typologies require,
   b. Specific constraints/discrete provisions related to a maximum lot yield of 179 lots that if exceeded tip the activity status from ‘restricted discretionary’ to ‘non-complying’,
   c. Other restrictive discrete provisions relates to lot sizes of 2,000m² or 2,500m²and 1ha subject to soil type and location of lot, distribution (e.g. lot size averages), setbacks, height restrictions, shape factor, site coverage, numbers of rear lots, road frontages, roading pattern that if taken individually or collectively adversely affect the level intensification that may otherwise be achieved,
   d. Affected parties including NZTA and Hamilton City Council regarding transport infrastructure external to the development.
   e. No incentives or lower development contributions are attributed to landowners differing contributions to open space and community infrastructure (e.g. walkways, cycleways, landscaped and other areas devoted to community use) of benefit to well-being, livability and environmental outcomes.
   f. Constraints on existing transport and three waters infrastructure,
   g. Council’s preference for growth it promotes (i.e. not private plan changes) and enables through infrastructure provision and buy-in from other stakeholders such as The New Zealand Transport Agency (‘NZTA’),
   h. The consistent conduct of NZTA over a 15-year period to unnecessarily oppose and/or restrict
growth. Approximately 70% of a $2M incurred in planning processes relates to NZTA’s conduct and attitude to growth,

i. Unreasonable constraints on growth where the transport network is not ‘right sized’ or fit for purpose (e.g. existing issues with efficiency, safety, design and capacity),

j. The road controlling authorities (e.g. NZTA, regional, district and city councils) unreasonably and proportionally seeking to transfer the cost burden associated with upgrading transport infrastructure as a condition of development,

k. The ‘affected party’ status conferred on NZTA, regional and neighbouring councils can be used to restrict growth unless such parties get what they want, placing feasibility of development in doubt and almost always representing a ‘handbrake’ on growth in terms of resources used (time, cost and opportunity cost) and conditions imposed to achieve agreement.

l. Distribution of NZTA funding to other modes of transport together with less funds being made available to address congestion and growth on state highways and the wider transport network.

m. A Memorandum of Understanding between the road controlling authorities (‘Authorities’) and their subsequent correspondence with a landowner of 102 ha of land zoned for large lot residential development that confirms the Authorities are to enable growth confirmed by planning processes. Despite this seemingly alignment of transport systems with land use, the Authorities unwillingness to address deficiencies in the transport system, has not enabled development of the land in question despite having 15 years to address transport system congestion and deficiencies.

8 Brownfield development land owned it situated on the city side of Hamilton alongside and overlooking the Waikato River. Land is zoned ‘residential intensification’ suitable for apartments and most residential housing typologies. Mixed use (i.e. including office) is not allowed.

9 Barriers to development of Brownfield land include:

a. Similar to 7 above, particularly site coverage and height restrictions,

b. Activities expected, predominantly residential, are primarily restricted discretionary activities (‘RDA’) and not permitted activities. Additional and avoidable costs relate to the prevalence of RDA status being conferred on expected activities,

c. The ability of council to require peer review of independent expert assessment without recourse to the requiring party,

d. The lack of recognition in district and regional plans of areas adjoining or in close proximity to significant transport networks, reserves or offering greater amenity than the norm where site coverage, density and height restrictions are relaxed,

e. The absence of (financial and planning) incentives (and lower development contributions) related to development of land offering greater amenity and livability than the norm, whether located alongside neighbourhood reserves or in close proximity to the CBD (in this case situated on the Waikato River near the CBD) or in such areas that pose much higher costs to develop than areas elsewhere or that offer inferior amenity and livability,

f. The bias of concessionary development contributions is to growth in the heart of the CBD rather than areas offering greater amenity than the norm and adopting more holistic approach where greater weight is given to non-financial factors such as personal and community wellbeing,

NPS-UD changes, actions and other tools

10 Do NPS-UD changes address matters referred to above and give effect to these:

a. Immediately? This is preferred.

b. Over council planning cycles of 10 years or more? If so, these cycles are too long.

11 Amendment to the Land Transport Management Act and/or directions are required from the Minister of Transport to NZTA not to oppose growth and/or impose conditions of consent on development where long term plans of NZTA and Authorities do not provide investment for lead/enabling infrastructure and/or address congestion on all existing transport infrastructure provided some form is ‘proportionate’ development contribution is paid is recognition of the eventual provision of transport infrastructure,

12 For land zoned for development, require local authorities and NZTA to disregard ‘caps’ on development
For land zoned for development, compel local authorities (and affected parties) to disregard increases in development density beyond what was contemplated in district plan provisions, particularly in terms of activity status (e.g. discretionary, non-complying) or to do so within three months of issue of the NPS.

Consultation questions

The box below sets out the full list of questions in this document.

Questions

1. Do you support a National Policy Statement on Urban Development that aims to deliver quality urban environments and make room for growth? Why/why not?

   No, I support an NPS on Urban Development for major urban centres only. Quality environments in major urban centres and urban centres are likely to differ. However, I support the need for growth in both centres.

   Are there other tools under the RMA, other legislation or non-statutory tools that would be more effective in achieving a quality urban environment and making room for growth?

   I suggest prohibited activities, non-complying activities, restrictions on intensification and lot yield (particularly where lot numbers are specified) should be removed from district plans with clear direction these are not to be taken into account (i.e. disregarded) in consent applications together and affected party requirements/consultation/submissions.

   I suggest the Minister of Transport give direction to NZTA to not oppose or frustrate growth with the effects of growth on safety and efficiency be the sole responsibility of NZTA and local authorities, with contributions to costs recovered through development contributions. Amendments to the Land Transport Management Act (‘LTMA’) should follow. Further, binding timeframes should be imposed on NZTA and affected parties to constructively respond to consent applications, and if not met, the affected party status is set aside.

   Further, NZTA should be directed/mandated to constructively respond to growth.

2. Do you support the approach of targeting the most directive policies to our largest and fastest growing urban environments? Why/why not?

   Yes, as that is where the greatest need. Directive policies could be ‘adopted’ for other urban environments where it can be demonstrated that affordability and feasibility of development is maintained or enhanced. Alternatively, local authorities such as those shown in Table 3 may elect to ‘opt in’ to NPS-UD directions.

   Do you support the approach used to determine which local authorities are categorised as major urban centres? Why/why not?

   Yes, provided local authorities surrounding major cities continue to be categorised in major urban centres as is currently the case.

   Can you suggest any alternative approaches for targeting the policies in the NPS-UD?

   Please refer to my comments and questions and comments in 1-13 above.

3. Do you support the proposed changes to future development strategies (FDSs) overall? If not, what would you suggest doing differently?

   a. Yes, I support the overall direction of the FDS.

   b. Change to objectives and policies should be comprehensive and such that effect is given to these in the shortest possible timeframe. My experience, touched on in 1-13 above, outline issues that must be overcome, requiring a clear and comprehensive strategy to achieve better regulatory efficiency and desired urban development outcomes that ought to include the shortest possible specified
timeframes, offering little ‘wriggle room’ for decision makers (local authorities, NZTA, Iwi). My view is national policy statements must give immediate affect to resource consent decisions and this requires immediate effect be given to as many national policy statements as possible. On this score, the draft NPS-UD is deficient.

c. My concern is that land already zoned for development offers immediate potential to achieve greater intensification. Invariably land already zoned has demonstrated they can provide a quality urban environment. I suggest that objectives and policies specifically target such land and address how consent applications ought to be processed for such land to capture greater housing opportunities associated with the same. This would certainly apply to the 102-ha greenfield site referred to in ‘Background Paragraph’s 4 to 7 above.

d. Revisions to LTP’s and RLP’s are likely to commence very soon. Consequently, completion of NPS-UD objectives and policies and implementation of the same are required with urgency.

   – Do you support the approach of only requiring major urban centres to undertake an FDS? Would there be benefits of requiring other local authorities to undertake a strategic planning process?
     Yes. There is limited value in requiring FDS of other local authorities, however it could be voluntary.

   – What impact will the proposed timing of the FDS have on statutory and other planning processes? In what way could the timing be improved?
     Please refer to my answer to 3 above. In short, my view is national policy statements must have immediate effect on resource consent decisions and this requires immediate effect be given to as many national policy statements as possible. On this score, the draft NPS-UD is deficient.

4 Do you support the proposed approach of the NPS-UD providing national level direction about the features of a quality urban environment? Why/why not?

These do not appear likely to lead to material differences about the quality of the urban environment. “Quality” is a term than has different meanings to different parties. My view is ‘incentives’ are likely to lead to better outcomes for the urban environment if a matrix of desired outcomes/values can be agreed.

   – Do you support the features of a quality urban environment stated in draft objective O2? Why/why not?
     No. Invariably development would seek to achieve these without these being prescribed.

   – What impacts do you think the draft objectives O2–O3 and policies P2A–P2B will have on your decision-making?
     My view is the objectives are overly subjective e.g., the use of ‘maximise’, ‘minimise’, ‘quality’. I suggest amend O3 as follows: “To enable development in locations and in ways that assist maximise its positive contribution to, and minimise reduce its negative impact on, quality urban environments.

5 Do you support the inclusion of proposals to clarify that amenity values are diverse and change over time? Why/why not?

Yes, however it is stating the obvious. However, clarifying that amenity values are diverse and not static appears to pose little downside risk of doing so.

   – Do you think these proposals will help to address the use of amenity to protect the status quo?
     Perhaps, it difficult to know. These proposals contemplate the unknown. Part of the issue is it’s difficult to propose and form objectives and policies about “urban environments providing for the diverse and changing amenity values of individuals and communities” when you don’t know what these are changing to.

   – Can you identify any negative consequences that might result from the proposed objective and policies on amenity?
Yes. By is very nature, development represents a set of ideas and concepts intended to attract demand. This picture of demand cannot realistically be geared towards an unknown future audience. The objectives and policies might simply be trying to achieve too much or the impossible.

Can you suggest alternative ways to address urban amenity through a national policy statement?

Incentivise their provision e.g. concessional or abated development contributions.

Do you support the addition of direction to provide development capacity that is both feasible and likely to be taken up? Will this result in development opportunities that more accurately reflect demand? Why/why not?

Yes, to both questions. I agree that replacing ‘sufficient’ with ‘enabling’ is a positive and constructive step. I also note that at the very least ‘likely to be taken up’ may add a potential buffer to land supply. However, development capacity will also require more rigorous testing of feasibility to inform whether it is ‘likely to be taken up’ and that can only be a good thing. Local Government could in part address development feasibility through incentives and/or by introducing concessional development contributions.

I support the intention of Objective O5, Policies P4A-P4G included on pages 31-32.

Do you support proposals requiring objectives, policies, rules, and assessment criteria to enable the development anticipated by the zone description? Why/why not?

No. This appears one step too far and too prescriptive. Please refer to comments in the next paragraph.

Do you think requiring zone descriptions in district plans will be useful in planning documents for articulating what outcomes communities can expect for their urban environment? Why/why not?

This suggestion has risks. It may be overcomplicated and not enable housing typologies to adapt or respond in the right way at the right time. I understand this issue has been evident for some time.

Do you think that amenity values should be articulated in this zone description? Why/why not?

No.
Do you support policies to enable intensification in the locations where its benefits can best be achieved? Why/why not?

Yes. Enabling intensification and housing typologies in such locations means these areas can adapt and respond in the right way at the right time, and likely to result in a healthy correlation between demand and supply, and housing typologies likely to satisfy the same.

a. What impact will these policies have on achieving higher densities in urban environments?

Significant. I support PGD but consider it should be strengthened further.

b. What option/s do you prefer for prescribing locations for intensification in major urban centres? Why?

Option 1, but this could be improved. Amend the timeframe of notification plan change from 18 months to 12 months. Option 2 is a crude approach, particularly for brownfield areas that pose additional constraints as some level of development will have occurred.

c. If a prescriptive requirement is used, how should the density requirements be stated? (For example, 80 dwellings per hectare or a minimum floor area per hectare).

Not to be applied to brownfield areas due to existing constraints.

d. What impact will directly inserting the policy to support intensification in particular locations through consenting decisions have?

Significant if infrastructure is ready or programmed to accept such development, provided consenting decisions can overcome or set aside constraints on intensification referred to in items 1-13 referred to at the beginning of this submission.

Do you support 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?

Yes, to the first part of the above question. It’s best to ensure greenfield areas already zoned for development are enabled and prioritised such that the desired form can occur e.g. the 102ha area referred to paragraph’s 4-7 above.

a. How could the example policy better enable quality urban development in greenfield areas?

Suggested amended to first paragraph of Example policy:

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

b. Are the criteria in the example policy sufficiently robust to manage environmental effects ensure a quality urban environment, while providing for this type of development?

Yes.

c. To what extent should developers be required to meet the costs of development, including the costs of infrastructure and wider impacts on network infrastructure, and environmental and social costs (recognising that these are likely to be passed onto future homeowners and beneficiaries of the development)? What impact will this have on the uptake of development opportunities?

i. All infrastructure, environmental and social costs external to the development should be provided by local government and NZTA, with the former met by development contributions.

ii. An equitable contribution to infrastructure within the development of benefit to the community should be paid/met by local government and other development via development contributions and cash.
d. What improvements could be made to this policy to make development more responsive to demand in suitable locations beyond areas already identified for urban development?
   i. Focus on areas where development land is already zoned but requires tweaking to provide intensification and the variety of housing typologies envisaged,
   ii. Require local authorities and NZTA to provide three waters and transport infrastructure respectively as a lead time of least three years is likely available before sections would be ‘market ready’ and able to receive houses.
   iii. Add “or existing zoned land” to follow references to “plan change” in ‘Example Policy’ (a), (b), (d).
   iv. Add (b) to read “Development enabled by the plan change would not have adverse effects no more than minor on protected areas or areas identified for restoration unless these areas can be avoided, remedied or mitigated.
   v. Remove “and adjacent to” for paragraph (d) of the example as this is not likely able to be remedied by the developer and ought to be the responsibility of the community/local government.

10 Do you support limiting the ability for local authorities in major urban centres to regulate the number of car parks required for development? Why/why not?

   Yes, confined to brownfield areas identified for intensification (allowing apartments) in close proximity to the CBD or major centres. It would be good if policies were developed that compelled local authorities to ensure some street parking is exclusively available to development and visitors to the same in areas identified for intensification and referred to above.

   a. Which proposed option could best contribute to achieve quality urban environments?
      Option 3, but confined to high density residential, commercial and mixed-use areas.

   b. What would be the impact of removing minimums in just high- and medium-density, commercial, residential and missed-used areas, compared with all areas of a major urban centre?
      i. Suitable alternative transport modes are not yet available to major centres and less likely in medium-density areas.
      ii. Mixed use development is restricted in high-density areas. The district plan of Hamilton City Council has objectives, policies and provisions that strongly resist mixed use development adjacent to the CBD where high-density development is allowed.

   c. How would the 18-month implementation timeframe impact on your planning processes?
      12 months is preferred. A prerequisite to acceptance of this policy is that it be given immediate effect and bylaws to developed to give effect to street parking referred to paragraph 10 above where exclusive/permitted use of street parking is provided to adjacent development and visitors to the same.

   d. What support should be considered to assist local authorities when removing the requirement to provide car parking to ensure the ongoing management of car parking resources?
      i. Funding/grants/subsidies for electric cycles and e-scooters,
      ii. Communal parking areas,
      iii. Local government for major urban centres should be directed to immediately allow mixed use development in areas close to the CBD and to which option 3 applies.
Do you think that central government should consider more directive intervention in local authority plans?

Yes. I support national planning standards.

a. Which rules (or types of rules) are unnecessarily constraining urban development?

Activity status, limits on lot yield, density, lot sizes, lot size average and distribution rules, limits on ancillary dwellings including location and size, height, height in relation to boundary, site coverage, setbacks, number of rear lots allowed, shape factors, road frontages. Please refer to initial paragraph’s 1-13 and suggestions made in this submission.

b. Can you identify provisions that are enabling higher-density urban development in local authority plans that could be provided for either nationally or in particular zones or areas?

Removal of minimum lot sizes, averages, greater use of permitted activity status (as opposed to restricted discretionary or discretionary), removal or very limited use of non-complying and prohibited activities. Please refer to initial paragraph’s 1-13 and suggestions made in this submission.

c. Should a minimum level of development for an individual site be provided for across urban areas (for example, up to three storeys of development is a permitted activity across all zones)?

No, however I support much greater use of permitted activity status across all zones. The policy suggestion is not prudent or equitable. Also, individual circumstances are too diverse to support such a policy. For example, landowners or family members may be unwell, lack the resources and no-how, be dealing with other circumstances, be of an age or disposition where taking such risks is no longer prudent or possible.
Given the potential interactions with the range of rules that may exist within any given zone, how could the intent of more directive approaches be achieved?

12 Do you support requirements for all urban environments to assess demand and supply of development capacity, and monitor a range of market indicators? Why/why not?

Yes. This is a complex area, requiring development of expertise and accurate base information able to be added to and refined over time. The purpose of the information, to inform assessment and provision of development capacity, is a noble and useful objective that if fulfilled will serve to better align land supply and infrastructure provision. Lower cost infrastructure and land prices is the likely outcome if excessive swings in both elements are avoided.

13 Do you support inclusion of policies to improve how local government works with iwi, hapū and whānau to reflect their values and interests in urban planning?

a. Do you think the proposals are an appropriate way to ensure urban development occurs in a way that takes into account iwi and hapū concerns?

No, I disagree with the policy suggestion. Every development does not need to represent concerns of one culture. A cultural bias is best avoided. New costs are likely and are best avoided. Greater potential conflicts of interest arise, and the policy intent appears to exceed Treaty requirements.

b. How do you think local authorities should be directed to engage with Māori who do not hold mana whenua over the urban environment in which they now live?

No.

c. What impacts do you think the proposed NPS-UD will have on iwi, hapū and Māori?

They would be under resourced to respond in a timely way, perhaps lack the necessary expertise and possibly conflicted given their own property interests.

14 Do you support amendments to existing NPS-UDC 2016 policies to include working with providers of development and other infrastructure, and local authorities cooperating to work with iwi/hapū? Why/why not?

a. Yes, in part. I agree with Objective O10, however it is not strong r directive enough.

b. I agree with Policies P10A(a), P10B(a) and (b), P10C(a)-(c). I do not support policy P10A(b), it is unnecessary and likely to lead to be an inefficient use of time and resources.

15 What impact will the proposed timing for implementation of policies have?

a. Proposed implementation timeframes are too slow for meaningful changes to existing greenfield areas (zoned for development) that meet the requirements for intensification of development. Provided other directives and tools enable development of such areas to occur with certainty upon confirmation of the proposed NPS-UD, implementation of NPS-UD intensification policies and planning standards are supported at the earliest possible implementation date.

b. I prefer within 12 months (or the earliest possible timeframe) of gazettal, policies providing for intensive development and on removing car parking minimums should apply.

16 What kind of guidance or support do you think would help with the successful implementation of the proposed NPS-UD?

a. Require amendment to the Land Transport Management Act and/or directions from the Minister of Transport to NZTA not to oppose growth or impose conditions of consent on development where the Authorities long term plans do not provide investment in lead/enabling infrastructure or address congestion on all existing transport infrastructure provided some form is ‘proportionate’ development contribution is paid is recognition of the eventual
provision of transport infrastructure,

b. For land zoned for development, require local authorities and NZTA to disregard ‘caps’ on development including limits/restrictions on development/lot yield,

c. For land zoned for development, compel local authorities (and affected parties) to disregard increases in development density beyond what was contemplated in district plan provisions, particularly in terms activity status (e.g. discretionary, non-complying) or to do so within three months of issue of the NPS.

d. I suggest the weighting in legal terms that must be given to NPS-UD intensification policies and planning standards is strengthened in greatest way possible.

17  Do you think there are potential areas of tension or confusion between any of these proposals and other national direction? If so, please identify these areas and include any suggestions you have for addressing these issues.

18  Do you think a national planning standard is needed to support the consistent implementation of proposals in this document? If so, please state which specific provisions you think could be delivered effectively using a national planning standard.

Questions from Appendix 3

A1. Do you support the changes to the HBA policies overall? Are there specific proposals you do or do not support? What changes would you suggest?

A2. What do you anticipate the impact of the proposed polices (and any related changes) would be on planning and urban outcomes?

A3. Are the margins proposed in policies AP3 and AP12 appropriate? If not, what should you base alternative margins on? (e.g., using different margins based on higher or lower rural-urban price differentials).

A4. How could these policies place a greater emphasis on ensuring enough development capacity at affordable prices?

A5. Do you support the approach of targeting the HBA requirements only to major urban centres? Why/why not?