

Submission on the proposed National Policy Statement on Urban Development

For the Ministry for the Environment

Prepared by the New Zealand Planning Institute – 10th October 2019

INTRODUCTION

1. This submission is made by **the New Zealand Planning Institute**.
2. Established in 1949, the New Zealand Planning Institute (NZPI) is the home of planning in New Zealand and has 11 active branches both within New Zealand and overseas. Our growing membership of over 2000 members are involved in strategic planning initiatives and implementation of urban and rural plans. NZPI delivers extensive training, networking opportunities, advocacy, real time planning news, mentoring, professional standards monitoring, accreditation of tertiary planning education in NZ and good practice guidance through the Quality Planning resource.

SUBMISSION

3. This submission addresses the draft NPSUD as set out in the MfE discussion document Planning for Successful Cities dated August 2019 which is intended to provide: “national direction under the RMA to help local authorities made good decisions about making room for growth, both up and out, in suitable areas”. We note the discussion document does not present a complete draft NPSUD, as it includes a combination of draft objectives and policies, together with some which are simply indicated as examples. This submission has been prepared on the basis that it is not intended to extend or add to the draft objectives, policies and example policies beyond those contained in the discussion document.

Summary

4. NZPI supports the current draft National Policy Statement initiative including NPSUD, NPS Highly Productive Land (NPSHPL), NPS Freshwater Management (NPSFW) and other policy strategies enhancing national tools that engage with issues New Zealanders want addressed.
5. It is critical that New Zealand’s Resource Management regulatory system has clear, robust and practical National Planning Statements that give direction for central and local government supported by other relevant organisations such as infrastructure providers. The NPS’s need to effectively integrate to enable issues related to urban development, housing, freshwater, food production, climate change to be addressed in a coordinated manner.
6. NZPI submits that the draft NPSUD – and the companion NPS on Highly Productive Land (NPS HPL)– and the relationships between these and other NPS’s – are highly problematic and require significant further work. There should then be an additional opportunity for submissions on the final wordings of these NPS’s before being gazetted and implemented. Submissions relating to implementation and coordination issues that arise from a proliferation of separate National Policy Statements and unintegrated national direction form a key part of this submission.

7. We expect that many of the objectives and policies in the draft NPSUD could contribute positively to sound resource management outcomes, particularly policies relating to spatial planning, better understanding of development economics, planning appropriate location and timing for urban development, the use of a sound evidence base, as well as many aspects of the provisions for HBAs which are to be retained from the NPSUDC.
8. However, there are important aspects where the draft NPSUD does not offer a strong and sound basis for good urban development planning. These are listed here, along with NZPI submission summaries, which are enlarged upon in the rest of this document:
 - **Coordinated and consistent implementation of national direction requirements** (NZPI submits NZ's growing set of NPS's requires an over-arching and integrating National Development Policy Framework built on a hierarchy of national, regional and local spatial plans.)
 - **Spatial planning, public participation and national coordination** (NZPI submits spatial planning tool is the essential tool for Future Development Strategies enabling coordination of national guidance and appropriate public participation.)
 - **Definition and delivery of quality urban environments** (NZPI submits the proposed NPS approach to urban amenity and quality is inadequate.)
 - **Information requirements for growth capacity bottom lines** (NZPI opposes the proposed "bottom line" and "likely to be taken up" approach to urban development capacity.)
 - **Unintended consequences of intensification guidance** (NZPI submits the proposed "bus stop" and prescriptive District Plan change approach to force higher density is blunt and ignores alternative approaches demonstrated in Auckland and Christchurch.)
9. NZPI generally supports the long-term strategic planning initiatives that are encapsulated in the proposed NPSUD (Objective O1, Policies P1A – P1I), in particular the proposed Future Development Strategy (FDS).
10. NZPI submits, however, there are two major policy omissions in the NPSUD FDS provisions. The first is the limited scope given for public consultation. By way of example, Auckland Council was required to adopt its spatial plan using the Local Government Act special consultative procedure. As proposed the FDS is at risk of being half-baked, and perhaps therefore considered unworthy of good public participation, functioning as window-dressing for short term land supply objectives, rather than being a cornerstone of good long-term planning. The second policy omission is the focus on existing cities and urban development, rather than wider metropolitan region development, and the consequent policy problem of spatially providing for integrated planning – for example: highly productive lands alongside urban and future urban lands consistent with national direction.
11. NZPI submits that similar concerns exist when applying the proposed NPS FDS as a planning tool for intensification. Existing parts of the urban fabric might be heritage, highly valued natural environments, open space, wide streets, leafy large lot suburbs, public car parks – some of which might be deemed potential options for densification in the future under the proposed NPSUD which appears, however, to elevate urban development around bus stops above all other matters. NZPI submits that good spatial planning processes including commensurate public consultation, should be the base planning approach, rather than the proposed imposition from above into planning instruments of national urban development prescriptions.

Background

12. Since the NPSUDC 2016 was gazetted NZPI has delivered new Economics and Urban Development courses throughout New Zealand to educate its members and to increase planning capacity and competency related to housing and business land assessments in particular. Feedback shows that members value an appreciation of urban economics particularly the operation of land markets and their impact on the demand for land, alongside the critical role and affect territorial authorities have in relation to the supply of developable land. However the gap in the “planning for outcomes” arsenal continues to be the absence of good long term planning frameworks and tools (such as spatial plans), and the lack of national guidance and direction related to urban liveability indicators and integrated planning.
13. NZPI has previously submitted there are practical directions that could be built into the current planning framework to address failings that have been identified. These include the preparation and promulgation of national policy statements that provide for central government direction.
14. NZPI’s recommended practical directions for reform are summarised in the following submission points, which are reproduced from NZPI’s previous submissions:
 - The RMA framework could remain, to enable development to occur within agreed, regulated and monitored environmental bottom-lines, but it needs to include land use, infrastructure plans and outcomes, and be organised so that it has direction at a national level, and outcomes delivered at a local level.
 - National direction policy statements that are geared toward urban development should be about strategic forward planning, rather than reactive issue planning. All s6 matters require national policy statements to provide national direction.
 - Changes to the planning framework need to enable interagency cooperation inherent in a framework of multiple layers. This requires distinct national issues and plans, and local issues and plans. Spatial planning approaches are supported.
 - There is a need to standardise rules and systems for example with an appropriate national template system, allowing for local overlay provisions and variation, and to provide clear rights of involvement, participation and of appeal in plan making.
 - Planning needs to be conceptualised as a public good where public and private property rights are protected, rather than simply as a user pays service for permission to develop.
 - Economic and social externalities of development including losses and gains affecting public and private property need to be provided for in the present RMA framework by means of national policy statements and enhanced s.32 type processes.
15. According to the Minister’s Message introducing the NPSUD, “The NPS-UD will ensure we develop well-functioning, inclusive and better-connected cities that reflect the diversity of their current and future communities. The NPS-UD will provide certainty for developers and community members to understand the future growth in our cities, and the resulting changes to communities and neighbours over time.”
16. In the case of Auckland, despite the almost universally accepted need for residential growth, the ability to stimulate *actual development* through central/local government initiatives (as opposed to simply enabling conditions in which such development *may* occur) has proved somewhat elusive. This is evident in previous initiatives such as Special Housing Areas and the previous NPS Urban Development Capacity. This was onerous on local authorities across New Zealand in terms of assessments/monitoring required (for example), and duplicated or cut across similar processes that were already undertaken or planned in some jurisdictions.

17. Another key factor in the success (or otherwise) of central government interventions will be the provision of infrastructure. Although the RMA national guidance expressly promotes coordination between local authorities and infrastructure providers and requires councils to consult/work with infrastructure providers, it does not (nor can it) direct infrastructure providers or meaningfully address the crucial issue of infrastructure funding.

Coordinated and consistent implementation of national direction

18. The discussion documents for the NPSUD and NPSHPL all seek advice and submissions relating to the alignment between these NPS's and with other direction under the RMA.
19. In the past 12 months NZPI has been invited to various informal engagements with MfE officials in the buildup to the recent release of these NPS discussion documents and has consistently expressed its concern about the need to consider the ways in which they interact. We have asked how practitioners should give effect to, and weigh, separate pieces of national guidance in their decisions, particularly decisions relating to resource consent applications where weight must be given to different NPS provisions.
20. Members have asked, for example, that if irrigation water is not available because of a constraint or requirement arising from a provision of the Freshwater Management NPS, to an area of land deemed "highly productive" because of provisions in the NPSHPL, then how should those different protections be weighed and assessed. Members have also asked how to trade-off NPS-HPL protections when a development application is received under the proposed NPS-UD relating to a piece of land which has NPSHPL protection.
21. International literature indicates that in advanced parts of the world, the basic forces determining agricultural land use near urban areas are associated with urban expansion. Where these forces are in operation, the agricultural pattern quite often is one of increasing intensity with distance from the city. Non-agricultural uses which bring higher rents "push" agricultural production beyond cities. The greater the chances are of urban land uses taking over, the lesser the chances of maintaining agricultural production or increasing its intensity will be – even where the land might be deemed "highly productive", especially in the long run. Various environment court decisions have tended to support this in New Zealand.
22. NZPI's interest and concern is how to effectively operationalise these separate pieces of national guidance and direction, in order to achieve alignment and consistency while enabling expected trade-off processes, and to avoid endless conflict. There appear to be at least three optional approaches:
 - Maintain separate NPS's. Eg NPSUD and NPSHPL. However, international experience indicates that unless the HPL's are strongly protected they will incrementally erode and be urbanised. US practice now is to designate or zone, and to provide rate discounts and other financial encouragements to maintain and protect those lands. However here in NZ the "highest and best value" economic valuations – market forces – arrangements prevail. Subdivision applications are generally granted – including Env Court decisions of Treadwell. Under present arrangements HPL would suffer the same cumulative losses and damage that freshwater has previously suffered, death by thousand cuts etc.

- Separate NPSUD and NPSHPL (and other NPS's) with an integrating National Development Policy Framework (like UK) or perhaps an over-arching General Policy Statement. This would set out priorities and provide hierarchy for decision-making. Currently as written the NPSUD has the potential to keep overriding the NPSHPL "avoiding" statement as set out Objective 3 if the development or subdivision is deemed appropriate.
 - Integrate the NPSUD and NPSHPL into one NPS. Call it "Urban Growth". Describe it as the tool for implementing Government's Urban Growth Agenda. Freshwater would stay outside it – freshwater policy development having gone through a much more thorough process. This NPS would essentially require a process at regional level to manage the "supply" of land for urban development and for agricultural purposes. It could form the rump of a NZ National Planning Policy Framework. And it would explicitly indicate how the trade-offs are to be made between these uses, and what the processes are to change use.
23. One of the key issues that practitioners are raising is how the various NPS's work together – there is significant tension between some of them. NZPI favours Option 2 from this list. Members have worked in the UK using that regime and it appears logical and practical. MfE may not have an appetite for this or consider it can be left to the RMA review process, but this will not address at a strategic level how national policy statements work together. This can't be left to individual practice and case law. Option 2 is the most workable approach and can be expanded to incorporate subsequent NPS's – e.g. biodiversity, climate change, heritage for example.
24. The key planning tool needed to give effect to this option is spatial planning. This is the consistent approach now in European countries, especially those most advanced in planning for climate change mitigation and adaptation. Best practice appears to be a hierarchy of spatial plans: national, regional and local/city levels. Each level provides direction to the lower levels. The tool used to integrate national direction policies would be a national spatial plan. This would be a spatial representation of the Urban Growth Agenda which would show population changes; urban growth and decline areas; highly valued horticultural lands; freshwater resources; and infrastructure enabling development (be it water or transport for example). This national development spatial plan would provide direction and policy for various Ministries including Transport, Urban Development and Environment. Regional and Unitary Authorities would be required to prepare consistent regional spatial plans which would map infrastructure (existing and future) and land uses (existing and future) to deliver the national plan, and indicate statutory responsibilities for which regional authorities hold direct responsibility – including water use. City and District spatial plans would be finer grained, and indicate local statutory responsibilities – including land use. Spatial planning would be the tool bringing together, and enabling coordination, of the functional outcomes of natural resource use planning (RMA), infrastructure funding (LGA and LTMA) and development (LGA and MHUD).

Spatial planning, public participation and national coordination

25. NZPI has called for spatial planning for some time, and is therefore disappointed by the lack of certainty in P1B, which hesitates to describe the format of a Future Development Strategy – while suggesting it could be a spatial plan.

26. We note the effectiveness of the national guidance materials that were developed by MBIE and MfE to explain and support the implementation of the NPSUDC (eg excel spreadsheets providing model financial analysis of land development projects, and model Housing and Business Land Assessments).
27. The Ministry could develop a National Standard spatial plan template as an exemplar Future Development Strategy document. This would avoid the wasteful creation of dozens of different types of spatial plan (or other FDS formats), would demonstrate spatially what needed to be shown in a Future Development Strategy (and illustrate FDS policies), could aim to integrate future planning requirements from other NPS's (eg Freshwater and Productive Lands), and make a useful contribution to NZ's planning systems.
28. NZPI submits there is already useful experience in New Zealand that can be drawn on (eg Auckland's spatial plan), and that delaying the staged implementation of spatial planning to underpin development pressures until after the reviewed RMA is enacted is unacceptable.

“Quality Urban Environment” as described is not adequate nor is its reporting

29. A key aspect of NZPI's concern about the NPS Urban Development Capacity (NPSUDC) was that to deliver its overall objective the indicators required to measure the availability of housing and business land supply needed to be supplemented with indicators that recorded the quality of the development that happened. This same concern still applies to the present proposal, though to a much greater extent.
30. The first objective for the NPSUDC – which the NPSUD aims to replace – was: “to support effective and efficient urban areas that enable people and communities to provide for their social, economic and cultural wellbeing”. This provided broad planning guidance related to the liveability of the urban areas to be created.
31. While the concept of a “quality urban environment” is central to the NPSUD, including through the FDS requirements (Objective O1), and objectives and policies relating to the scale, location and timing of urban development - the description of the “quality urban environment” is limited in scope, and inadequate as a basis for national guidance on sound urban development outcomes - particularly in relation to people and communities (Objective O2(a)), and to business activity (Objective O2(b)).
32. The “quality urban environment” is intended to make it possible for people, whanau and communities
 - a) *to provide for their well-being by offering*
 - b) *access to a choice of homes*
 - c) *which meet their:*
 - i. *demands*
 - ii. *jobs*
 - iii. *opportunities for social interaction*
 - iv. *high quality diverse services and*
 - v. *open space*
33. This described “quality urban environment” is inadequate because it covers only a limited number of matters through which urban environments contribute to well-being. The indicators required by the proposed NPS only measure a small part of what is happening on the ground, and need to be supplemented with indicators that record the quality of the development that is happening, not just the potential quantity of houses that might be built.

Central government resources would assist in the collection and comparative assessment of more comprehensive liveability measures.

34. Take Sydney by way of example. Sydney's growth is shaped by: urban consolidation, intensification, infill, brown and greenfield developments. During the next two decades, the population is expected to grow by 1.6 million and 600,000+ new homes will be needed. The Greater Sydney Commission has a "Liveable" Sydney as a key focus because it is recognised as an issue that must be addressed in its planning. The idea is to promote principles and planning practices that secure and boost rather than diminish liveability of Sydney. The objective is urban intensification that delivers measurable benefits to local communities. Examples include: increase the share of social and affordable dwellings; reduce the average travel time to employment; increase the share of trips made by active transport modes; increase the ratio of public education places to school age children; and increase the area of active open space assets.
35. In the Sydney example, the assessment of 'liveability', 'quality of life' and 'sustainability' entailed a framework of dimensions, indicators and benchmarks. Two broad approaches to benchmarking were considered: Comparison of metrics from one location to those of a benchmark location; comparison of a location to normative benchmarks. They chose normative benchmarks that could be adjusted by residents' perceptions of liveability of their local area.
36. We suggest there is considerable scope for national guidance in central development, promotion of and use of a balanced set of indicators to measure and guide the production of pieces of city that don't just deliver economic wellbeing – they deliver social and cultural wellbeing as well.
37. The discussion document itself offers a more balanced and comprehensive approach than is included in the NPSUD. *"Allowing for growth must not be at the expense of well-functioning, vibrant urban and natural environments. The Government wants to maximise the benefits of good urban growth, while minimising costs and drawbacks. We can create high-quality, liveable cities that contribute to the well-being of people and the natural environment."*(p14)
38. Good policy design and development includes monitoring and evaluation as part of the policy cycle. We suggest that the "evidence for good decision-making" section should refer to urban amenity and liveability indicators, not just indicators relating to property markets and prices.

Growth capacity "bottom lines" and information requirements

39. The NZPI considers the use of the phrase "bottom line" within an RMA context to describe the management of the use of land, is ill-advised and inappropriate.
40. Development in RMA terms is subject to environmental bottom lines, and paraphrasing the Minister, "the economy is a wholly owned subsidiary of the environment". The idea of growth capacity bottom line requirements being part of RMA statutory plans is inappropriate because it suggests those frameworks have the power alone to deliver developable land. They clearly do not. For land to be developable it needs to be serviced by infrastructure funded privately by the market and by public investment decided through other legislation entirely. RMA processes may enable land to be developable, they cannot prescribe that it be

developable, nor can they fund necessary infrastructure. RMA planning processes such as spatial plans can of course map the various components that combine to enable land to be developable. But RMA processes cannot deliver to growth capacity bottom lines, and such phrases have no place in related national direction.

41. NZPI submits that the addition of national direction to provide development capacity that is both feasible and “likely to be taken up” is inappropriate for reasons outlined above, and also because it imposes information gathering requirements akin to crystal-ball gazing. Where would council planners find information that could be relied upon to classify developable land as “likely to be taken up”? Speculative behaviours and land-banking are legitimate actions by owners of land seeking to compete with other investors and aiming to maximise returns from investment. Who would know whether land was likely to be taken up?

Unintended consequences of intensification guidance

42. NZPI generally supports an objective of the proposed NPSUD that existing urban areas with appropriate amenity (good public transport is one example) provide more housing by enabling land to be developed more densely. NZPI notes that existing major urban areas have recently reviewed their city plans to deliver on this objective (Auckland and Christchurch for example). These plan changes were made across the whole city in an integrated and consistent way after public processes which were not prescribed by national direction.
43. One of the key aspects that needed to be taken into account was the capacity of existing infrastructure. Whether and how much capacity exists to accommodate an increased population is also factored into the planning (eg for schools, trunk sewer loadings, other network utilities etc) and may be used to set development levies so that new home occupants pay for capacity expansions.
44. The drafters of these provisions in the NPSUD have taken a stab and come up with all specified bus stops and all town centres as the city places that must be zoned high density or higher density through compulsory plan changes. This is a blunt instrument. Christchurch and Auckland have already gone through a much more fine-grained process to achieve this objective. In Auckland’s case the process included a fine-grained spatial planning approach, thousands of submissions, and which considered all of the attributes and constraints of places and arrived at integrated outcomes. The problems of having this new capacity “taken up” are what are now faced in cities like Auckland and Christchurch – not of identifying “developable” pieces of the city.
45. NZPI submits that other processes under consideration including urban development agency powers and processes are what will be needed to encourage and motivate the take-up of existing brownfield land development potential.
46. NZPI submits that the policy basis for NPSUD intensification provisions is confrontational and inappropriate. To require that all existing urban areas in New Zealand where benefits can be maximised be upzoned – unless there is a good (evidenced) reason not to – by means of plan changes notified within 18 months of gazetting, is draconian. International experience shows that urban intensification is a problematic and challenging process which takes time to get right, is different from place to place, and is ultimately only successful when existing property stakeholders agree to be willing buyers and willing sellers.

Request to be heard

47. If there is any further opportunity to do so, the New Zealand Planning Institute wishes to be heard in support of this submission.

Date: 10th October 2019

Contact: David.Curtis@planning.org.nz

David Curtis

CEO

New Zealand Planning Institute

P: +64 9 520 6277 ext 3 | M: +64 21 625 244 | www.planning.org.nz

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