



Aide-memoire

Further information on bringing forward and strengthening the NPS-UD			
Date:	6 August 2021	Security level:	In Confidence
Priority:	Medium	Report number:	AMI20/21080608 (HUD) BRF-446 (MfE)

Information for Minister(s)	
Hon Dr Megan Woods Minister of Housing	Note the contents.
Hon David Parker Minister for the Environment	

Contact for discussion			
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Other agencies consulted

Minister's office to complete

- Noted
- Seen
- See Minister's notes
- Needs change
- Overtaken by events
- Declined
- Referred to (specify)

Comments

Date returned to HUD:



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Further information on bringing forward and strengthening the NPS-UD

For: Hon Dr Megan Woods, Minister of Housing
Hon David Parker, Minister for the Environment

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Purpose

1. This paper provides further information relating to bringing forward and strengthening the National Policy Statement on Urban Development (NPS-UD). It covers:
 - a. enabling private plan changes to use the streamlined planning process
 - b. providing councils with more flexibility around the location of density.
2. It also provides a table setting out the policy parameters for bringing forward and strengthening the NPS-UD.

Enabling greenfield development through the SPP

3. This proposal would involve amending the Resource Management Act 1991 (RMA) so that private plan changes can go through a streamlined planning process (SPP) if the plan change meets certain criteria.
4. Officials consider that this change could be beneficial if properly targeted. Greenfields developments can face planning challenges, even where these opportunities are in planned growth areas. Examples include Drury and Tauriko West.
5. An effective approach could be to enable greenfields opportunities already identified in strategic plans (such as spatial plans and structure plans). This would align with the proposed approach for the National Policy Statement on Highly Productive Land (NPS-HPL).
6. This proposal would have little impact on current timelines for this legislation. Some policy work would be required, with a focus on designing criteria to ensure high quality proposals are progressed. Officials would be able to build on the existing SPP and the proposed Intensification Streamlined Planning Process (ISPP), making the necessary modifications.

7. Cabinet decisions on this can be made when the Bill is considered at LEG committee prior to introduction.

Description	Amend the RMA so private plan changes can go through an SPP if the plan change meets certain criteria
Main impacts	<ul style="list-style-type: none"> • Would enable private plan changes that enable high-quality greenfields developments to be progressed faster than under standard RMA processes. • Would mean more private plan changes processed through an SPP.
Considerations	<ul style="list-style-type: none"> • Quality greenfields development requires master planning and managing a wide range of impacts including on infrastructure, climate change, and the natural environment. This could undermine councils' roles in managing the complex trade-offs. • Could have an impact on the ability to limit climate emissions, particularly if it results in poorly serviced greenfields development. • Would provide a faster plan-making pathway but would not necessarily deliver housing if other issues such as infrastructure provision are not addressed. • Would increase councils' workloads due to responding to applications and being involved in the process. • May affect councils' critical role in engaging with Māori regarding plan changes.
Likely impact on process	<ul style="list-style-type: none"> • Could be incorporated into the Bill under current timeframes if appropriately targeted to focus on enabling high-quality greenfields developments. • Necessary Cabinet decisions could be made when the Bill is considered at LEG committee.

Providing councils with more flexibility around the location of density

8. This proposal would involve providing a new qualifying matter that gives councils greater flexibility to reduce density in some areas in return for more density in others. It would require outlining certain circumstances where this would be acceptable. It would be in addition to the existing qualifying matters that already enable councils to limit required density.
9. This proposal would have a significant impact on current timelines. Considerable policy work would be required to design a new qualifying matter in a way that does not add a lot more time and complexity to the plan changes and decision-making required to implement the medium density residential zone and the intensification policies of the NPS-UD.
10. Without careful design, a new qualifying matter could provide councils with a mechanism to exempt high-demand suburbs that have traditionally opposed intensification. It could also increase the ability for status quo bias objections from the public.
11. Officials would need to consider how to provide sufficient direction, so councils and independent panels are clear on when and how to use the new qualifying matter. Otherwise, it could make decision-making slower and more complicated. As councils are already using the existing qualifying matters in ways that were not expected, this is likely to be complex policy work.
12. Officials consider this change may have unintended consequences for the NPS-UD as a whole. This is because a new qualifying matter would touch on other aspects of the NPS-UD, such as the requirement on councils to provide additional capacity over and above what they are directed to do.
13. Adding a new qualifying matter would have an impact on councils, potentially slowing their development of the intensification plan changes due in August 2022. They would need to undertake additional work to identify areas where it is appropriate to restrict density and to do the analysis needed to justify this reduction. They would also have to identify where they would enable greater density in return. The current proposal has efficiencies because of its simplicity.

14. The required Cabinet decisions could be made when the Bill is considered at LEG committee prior to introduction. However, the policy work required to inform the LEG paper could significantly delay introduction.
15. There may be alternative options for providing councils with more flexibility around the location of density that could be explored. These options could include allowing councils to exempt some residential areas from medium density residential zoning so long as these exemptions do not exceed a specified proportion of their existing residential zones or put in place infrastructure triggers. Infrastructure triggers would enable an area to be zoned for medium density, while providing a way to sequence development to align with infrastructure requirements. Significant further policy work would be required to develop these options.

Description	Amend the RMA and the NPS-UD to provide councils with more flexibility around the location of medium density residential zoning
Main impacts	<ul style="list-style-type: none"> • May assist councils to trade off where intensive development can occur in response to potential constraints in particular areas.
Considerations	<ul style="list-style-type: none"> • Could be used by councils to justify more limited density in areas that need it most via an increase in density in other areas. • Could delay the development of intensification plan changes, as additional work would be required by councils to prepare plans, and slow decision-making under the ISPP. • Would allow more status-quo bias in the ISPP process as it would give more options for objections.
Likely impact on process	<ul style="list-style-type: none"> • Likely to have an impact on timing as careful policy design will be required to ensure unintended consequences are minimised. • Necessary Cabinet decisions could be made when the Bill is considered at LEG committee.

Annexes

16. Annex 1 is a table setting out the policy parameters for bringing forward and strengthening the NPS-UD.

Annex 1: Bringing forward and strengthening the National Policy Statement on Urban Development – policy parameters

Policy proposal	Description														
<p>Require tier 1 councils to use a new planning process to bring forward the National Policy Statement on Urban Development (NPS-UD)</p> <p>This new process would be based on an existing RMA planning process “the streamlined planning process” but has been adapted slightly to enable swift and certain implementation of the NPS-UD and medium density residential zoning standards.</p>	<p>The Intensification Streamlined Planning Process (ISSP) would mean:</p> <ul style="list-style-type: none"> • councils would be required to notify plan changes by August 2022 • there would be a submission period • an independent panel would hear submissions and make recommendations to the council • the council would notify its decision • if a council disagrees with the independent panel’s recommendations, the Minister for the Environment would make a final decision • there would be no appeal rights (this would be the same as the existing streamlined planning process). 														
<p>Require tier 1 councils to adopt medium density residential zoning standards as a default</p> <p>In practice, these standards would permit landowners to build up to three storeys and three units on their site as of right with a range of less restrictive planning controls to allow this. This would include alterations to existing buildings and making subdivision easier.</p> <p>This would mean that fewer resource consents would be required. Where resource consent is required, the process would be simpler (e.g. fewer requirements for notification).</p>	<p>The medium density residential zoning standards would be more permissive than typical residential zones but would still take things like natural hazards and heritage into account.</p> <p>Proposed standards:</p> <table border="1" data-bbox="989 899 1829 1383"> <tbody> <tr> <td>Height</td> <td>11m + 1m for qualifying pitched roof</td> </tr> <tr> <td>Height in relation to boundary</td> <td>6m high + 60° recession plane</td> </tr> <tr> <td>Setbacks</td> <td>Front yard: 2.5m Side yard: 1m Rear yard: 1m (excluded on corner sites)</td> </tr> <tr> <td>Building coverage</td> <td>Max 50%</td> </tr> <tr> <td>Impervious surface</td> <td>Max 60%</td> </tr> <tr> <td>Outdoor living space (one per unit)</td> <td>15m² ground floor adjoining residential unit (minimum dimension of 3m) 8m² above ground balcony per floor (minimum dimension of 1.8m)</td> </tr> <tr> <td>Outlook space (per unit)</td> <td>Principal living room: 3m x 3m All other habitable rooms: 1m x 1m</td> </tr> </tbody> </table>	Height	11m + 1m for qualifying pitched roof	Height in relation to boundary	6m high + 60° recession plane	Setbacks	Front yard: 2.5m Side yard: 1m Rear yard: 1m (excluded on corner sites)	Building coverage	Max 50%	Impervious surface	Max 60%	Outdoor living space (one per unit)	15m ² ground floor adjoining residential unit (minimum dimension of 3m) 8m ² above ground balcony per floor (minimum dimension of 1.8m)	Outlook space (per unit)	Principal living room: 3m x 3m All other habitable rooms: 1m x 1m
Height	11m + 1m for qualifying pitched roof														
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Outlook space (per unit)	Principal living room: 3m x 3m All other habitable rooms: 1m x 1m														

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Application of the medium density residential zoning standards	The medium density residential zoning standards would permit a minimum level of development (height and density) in most existing residential zones, except where development exceeding a three-storey height limit will be enabled as part of the NPS-UD intensification requirements.
How soon would development in line with the medium density residential zoning standards and under the NPS-UD be enabled?	<p>The medium density residential zoning standards would have legal effect from the time the council notified the plan change by August 2022 (unless a qualifying matter applies).</p> <p>The NPS-UD intensification would have legal effect when the council notifies their decision after the submission and hearing period. (Note: this would be at least one year sooner than if the council hadn't used the ISPP).</p>
Application for tier 2 councils	<p>Tier 2 councils could be required by Order in Council to use the ISPP to adopt the medium density residential zoning standards.</p> <p>The Minister for the Environment would make a recommendation to the Governor General based on whether the district was experiencing acute housing need. This could include considering factors like the "median multiple".</p>

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