

APPENDIX 5



Ministry for the
Environment
Manatū Mō Te Taiao

National Policy Statement on Urban Development 2020

Understanding and implementing the responsive planning policies

This guide provides information to help local authorities understand the requirements of the responsive planning policies in the National Policy Statement on Urban Development 2020 (NPS-UD).

It also sets out the policy intent behind the NPS-UD. It is not part of the NPS-UD and is not legal advice.

Scope

This guide explains how local authorities must consider private plan-change proposals for developments that are unanticipated or out of sequence as outlined in the NPS-UD Objective 6(c), Policy 8 and Part 3, subpart 2 – Responsive planning.

It provides advice on applying the NPS-UD but not how a local authority must assess the merits of individual private plan-change proposals.

Under Policy 8, local authorities must be responsive to plan-change proposals if they add significantly to development capacity and contribute to well-functioning urban environments. Part 3, subpart 2 provides more detail of what “responsiveness” means in this context. Under clause 3.8(2), local authorities must have “particular regard to” the development capacity enabled through these plan changes. Case law under the Resource Management Act 1991 (RMA) has found that having “particular regard” to something involves recognising that matter as important to the relevant decision, and therefore to be considered and carefully weighed in coming to a conclusion.

Objective 6: Local authority decisions on urban development that affect urban environments are:

...

- (c) responsive, particularly in relation to proposals that would supply significant development capacity.

Policy 8: Local authority decisions affecting urban environments are responsive to plan changes that would add significantly to development capacity and contribute to well-functioning urban environments, even if the development capacity is:

- (a) unanticipated by RMA planning documents; or
- (b) out-of-sequence with planned land release.

3.8 Unanticipated or out-of-sequence developments

- (1) This clause applies to a plan change that provides significant development capacity that is not otherwise enabled in a plan or is not in sequence with planned land release.
- (2) Every local authority must have particular regard to the development capacity provided by the plan change if that development capacity:
 - (a) would contribute to a well-functioning urban environment; and
 - (b) is well-connected along transport corridors; and
 - (c) meets the criteria set under subclause (3); and
- (3) Every regional council must include criteria in its regional policy statement for determining what plan changes will be treated, for the purpose of implementing Policy 8, as adding significantly to development capacity.

Intent of responsive planning policies

Intent

Objective 6(c) recognises local authorities cannot predict the location or timing of all possible opportunities for urban development. It therefore directs local authorities to be responsive to significant development opportunities when they are proposed.

The intent of Policy 8 and Part 3, subpart 2 is to:

- enable transparency and responsiveness in planning decisions
- improve competition in land markets
- accelerate land supply
- discourage land banking.

This will support improved housing affordability.

The NPS-UD directs local authorities to be responsive to plan-change requests that would:

- provide significant development capacity (see section [below](#) on adding significant development capacity)
- contribute to well-functioning urban environments
- be well connected along transport corridors.

The proposed development may be:

- out of sequence (eg, locations identified for future urban development but dependent on sequenced land release) or
- unanticipated in existing plans or other strategies (eg, locations outside of areas identified for urban development, or areas currently zoned for urban uses but with less development capacity).

Plan changes for urban development initiated under this policy should ensure the development is (or has clear and realistic plans to be) well connected to jobs and amenities along transport corridors. These corridors would support a range of transport modes, ideally both public and active transport.

The NPS-UD does not override or replace the consideration of environmental effects occurring through the RMA Schedule 1 plan-change process. Plan changes must also give effect to other national direction.

Planning for growth and remaining responsive to development opportunities

The NPS-UD recognises the value of having well-integrated and coordinated growth areas. Future development strategies, which tier 1 and 2 councils must prepare (and other local authorities may prepare), will describe how local authorities intend to achieve well-functioning urban environments in existing and future urban areas. The strategies will also set out how and where local authorities will provide sufficient development capacity to meet growth needs over the next 30 years. A factsheet on future development strategies can be found on our [website](#).

The updated requirements for future development strategies in the NPS-UD include that local authorities engage with the development community when planning where growth will take place in the future. This engagement aims to understand where future development opportunities may arise, and for these to be included in strategic planning through the future development strategy where appropriate.

The responsive planning policies complement the future development strategy process by recognising urban areas are dynamic and complex systems, which continually change in response to wider economic and social conditions. Local authorities need to anticipate and plan for growth while remaining open to change and being agile and responsive to development opportunities.

Expected outcomes

The responsive planning policy in the NPS-UD limits a local authority's ability to refuse certain private plan-change requests without considering evidence. This is because Policy 8 requires local authorities to make responsive decisions where these affect urban environments. Implementing this policy is expected to result in more plan-change proposals being progressed where they meet the specified criteria (see section on criteria [below](#)). This will likely lead to proposals being brought forward for development in greenfield (land previously undeveloped) and brownfield (existing urban land) locations, which council planning documents have not identified as growth areas.

The responsive planning policy will reassure the development sector that local authorities will consider opportunities consistently and transparently. This may facilitate competitiveness within the system, as developers will know the local authority has an established system for considering new development opportunities proposed by the development sector and landowners.

This will mean the location and extent of urban and rural zones, and/or any urban boundaries identified in plans, needs to be able to be responsive and flexible.

Local authorities may choose to identify in RMA plans and future development strategies where they intend:

- development to occur
- urban services and infrastructure to be provided.

The identified areas must give effect to the responsive planning policies in the NPS-UD and therefore should not represent an immovable line. Council policies, including those in regional policy statements relating to out-of-sequence development, will need to be reviewed and, in some cases, amended to reflect the responsive planning policies of the NPS-UD.

Implementing the responsive planning policies

The NPS-UD sets out three aspects local authorities need to consider when determining if a plan-change proposal should be considered under the responsive planning policies. These are if the proposal would:

- contribute to a well-functioning urban environment
- add significantly to development capacity
- be in an area well connected along transport corridors.

These three aspects are discussed below.

Contributing to a well-functioning urban environment

Decisions affecting urban environments must be responsive and contribute to creating well-functioning urban environments. Features of well-functioning urban environments are set out in Policy 1 and include:

- enabling a variety of homes that meet the needs of different households, and that allow Māori to express their cultural traditions and norms
- enabling a variety of sites suitable for different businesses
- providing good accessibility, including by way of public or active transport
- supporting the competitive operation of land and development markets
- supporting reductions in greenhouse gas emissions
- providing resilience to the likely current and future effects of climate change.

The NPS-UD does not provide an exhaustive list of factors that contribute to well-functioning urban environments. As well as the NPS-UD, there are other factors contributing to the outcomes councils and other decision-makers may wish to consider, such as principles of urban design. A factsheet on well-functioning urban environments is available on our [website](#).

Adding significantly to development capacity

Policy 8 requires local authorities to determine what private plan changes would add significantly to development capacity.

About development capacity

In the NPS-UD development capacity means the capacity of land to be developed for housing or for business use, based on:

- (a) the zoning, objectives, policies, rules and overlays that apply in the relevant proposed and operative RMA planning documents; and
- (b) the provision of adequate development infrastructure to support the development of land for housing or business use

In the context of the responsive planning policy, changes requested to zoning, objectives, policies, rules and overlays through the plan-change process would enable land to be developed for housing

or business use to meet paragraph (a) above, if approved. However, to qualify as releasing “development capacity”, paragraph (b) also needs to be met.

The responsive planning policies seek to ensure flexibility to enable development that may not be currently in council infrastructure plans. Private plan-change proposals should therefore show how the infrastructure needed to service the development would be provided.

This could occur in a number of ways including:

- the local authority agreeing to amend their relevant infrastructure plans, budgets and financial policies (eg, development contributions policy)
- the local authority and landowner entering into contractual agreements with the relevant infrastructure providers to enable the direct provision of development infrastructure, and ongoing ownership and maintenance requirements
- establishing a ‘special purpose vehicle’ to finance infrastructure under the Infrastructure Funding and Financing Act 2020.

The full cost of infrastructure should be considered including:

- increased demand on infrastructure outside the development, such as regional and bulk infrastructure networks (including water and transport networks)
- ongoing servicing costs.

Criteria for determining significant development capacity

The responsive planning policy is tied to ‘significant’ development capacity because it is not intended to apply to every private plan-change request a local authority receives.

Criteria must be included in regional policy statements under subpart 2, clause 3.8(3) to determine which plan changes will be treated (for the purpose of implementing Policy 8) as adding significantly to development capacity. These criteria will help to filter out small, speculative proposals.

Regional and district councils should work collaboratively to develop criteria. We recommend the criteria cover the topics outlined below as a start, but local authorities can develop different ones as well. The criteria should also align with the higher-order objectives of the NPS-UD, for example, criteria should not undermine competitive land markets and responsive planning by setting unreasonable thresholds. The criteria should have a strong evidence base.

Once prepared, local authorities will use the criteria to assess whether the development capacity provided by a plan-change request is significant. Local authorities considering plan changes must comply with the direction in NPS-UD from 20 August 2020. This means they could use the factors listed below to help them determine whether a plan change would add significantly to development capacity until the criteria are included in the relevant regional policy statement.

Factors that can help determine whether significant development capacity exists are:

1. Significance of scale and location

The extent to which the scale and location of the proposed development:

- contributes to a well-functioning urban environment, recognising its spatial context. For example, is the size of the development (in terms of housing numbers) large enough to make a substantial contribution to the housing bottom lines and housing needs that have been identified through housing and business development capacity assessments or other evidence?
- is large enough to support a range of transport modes in the future, or is located in an area already well connected to transport (discussed [below](#)).

2. Fulfilling identified demand

- The extent to which the proposed development provides for identified demand. Demand may be identified in several ways including:
 - housing and business development capacity assessments and information monitored under subpart 3 will help identify gaps in the supply of certain types of housing and business land (eg, demand for dwellings, land for Māori housing, one- and two-bedroom dwellings and affordable houses)
 - the market will signal where there is a future demand for housing and business land
- The yield of the proposal relative to identified future needs (eg, a mix of land uses, higher housing densities to provide more houses and the provision of a range of housing typologies).

3. Timing of development

Whether the development can be delivered at pace. If a development is proposed to occur earlier than planned for in council planning documents, it needs to be shown there is a commitment to, and capacity available, for delivering houses and businesses within this earlier timeframe.

4. Infrastructure provision (development infrastructure and additional infrastructure)

The extent to which the proposal demonstrates viable options for funding and financing infrastructure required for the development.

Understanding “well-connected along transport corridors”

To trigger the responsiveness policies, the proposed development needs to be well connected along transport corridors. Ideally, the transport corridors should be connected via a range of transport modes or there should be plans for this in the future. At a minimum, the corridors should be designed to allow for a range of modes in the future.

Ideally, developments under this policy will be transit-orientated with mixed land uses and densities. This would enable genuine transport choices and less reliance on private vehicles. While transport infrastructure may not exist when the plan change is promoted, there needs to be confidence the infrastructure will be funded for delivery and maintenance in the future.

A range of modes

Transport corridors may include a range of modes and local authorities should consider ones that people can use safely, effectively and efficiently. If possible, people should not need to rely solely on private vehicles to travel within the proposed development, to and/or from other urban areas, or to access essential services like employment, and health or community services.

Proximity to amenities and services

Proximity to jobs and amenities (either within or outside the development) affects the transport modes people use. The uptake of active and public transport modes increases as travel distances between services decrease. Therefore, local authorities should consider the proximity of a proposed development to other urban areas with concentrations of jobs and amenities. They should also consider the provision of services and amenities within the proposed development to reduce the number and length of trips required along transport corridors.

Contributing to a well-functioning urban environment

The requirement for development capacity to be well connected along transport corridors is in addition to testing the development against the criterion of “contributing to a well-functioning urban

environment” in subpart 2, clause 3.8(2)(a). This criterion includes a requirement for a development to “have good accessibility for all people between housing, jobs, community services, natural spaces and open spaces, including by way of public or active transport”.

The well-functioning urban environment and well connected along transport corridors criteria together signal the importance of considering the location of a proposed development in relation to other areas and amenities, relative accessibility and transport infrastructure and/or options, when assessing any unplanned or out-of-sequence development proposals.

Application to brownfield and greenfield development

The responsive planning policy can be applied to brownfield and greenfield locations. Being well connected along transport corridors will be achieved differently depending on the development’s location and the existing and planned transport infrastructure. For example, a plan-change proposal in a brownfield location may already be well connected to the public transport network, whereas a greenfield location may require investment to ensure the area is well connected along transport corridors.

Like determining significant development capacity, an assessment of whether a development is well connected along transport corridors will vary depending on the scale of the urban area and the existing and planned transport infrastructure. The proponents of the development will need to demonstrate how a proposal is, or will be, well connected in the context of the particular urban environment in which it is located.

Timing

The responsive planning requirements apply to all tier 1, 2 and 3 local authorities and came into effect on 20 August 2020.

The policies will need to be implemented continuously, as and when relevant requests for plan changes are made. For the purpose of implementing Policy 8, criteria must be included in regional policy statements to determine what plan-change requests will be treated as adding significantly to development capacity as soon as practicable.

Disclaimer

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**MINISTRY OF HOUSING
AND URBAN DEVELOPMENT**

New Zealand Government

APPENDIX 6



Ministry for the
Environment
Manatū Mō Te Taiao

National Policy Statement on Urban Development 2020

Responsive planning

This is one of a series of seven fact sheets that give an overview of the National Policy Statement on Urban Development (NPS-UD). This fact sheet provides information on objective 6(c), policy 8 and subpart 2 of Part 3.

These provisions come into force on commencement of the NPS-UD.

Purpose

This direction seeks to ensure that local authorities respond to development proposals that would add significantly to development capacity and contribute to well-functioning urban environments, regardless of whether they are planned for or anticipated in existing planning documents. It applies to development proposals in both greenfield and brownfield locations.

Local authorities routinely receive plan change requests that would result in significantly increased development capacity. The NPS-UD requires local authority decisions on these plan changes to be responsive if the plan change proposal meets a set of criteria. This increases the responsiveness of the planning system to significant opportunities and removes constraints to urban development.

Requirements

Part 3, subpart 2, clause 3.8(2) states:

Every local authority must have particular regard to the development capacity provided by the plan change if that development capacity:

- a. would contribute to a well-functioning urban environment; and
- b. is well-connected along transport corridors; and
- c. meets the criteria set under subclause (3).

The responsive planning requirement applies to tier 1, 2 and 3 local authorities from the commencement of the NPS-UD.

Part 3, subpart 2, clause 3.8(3) requires regional councils to include criteria in their regional policy statements to determine what plan changes will be treated as adding significantly to development capacity for the purpose of implementing Policy 8. Changes to regional policy statements must be made as soon as practicable.

Policy 1 of the NPS-UD should be referenced to determine whether the development capacity that will be provided through a plan change would contribute to a well-functioning urban environment.

Policy 1 sets out the minimum requirements that the plan change should contribute to. These requirements include:

- enabling a variety of homes and sites suitable for business
- good accessibility, including by way of public or active transport
- supporting the competitive operation of land
- supporting reductions in greenhouse gas emissions
- resilience to the likely current and future effects of climate change.

The plan change must also show how the development is well-connected along transport corridors to ensure development is not disconnected or isolated. This will encourage responsive developments in appropriate, accessible locations.

What has changed from the National Policy Statement on Urban Development Capacity?

The NPS-UD responsive planning requirements are more specific than those in the National Policy Statement on Urban Development Capacity 2016. They relate to a local authority's response to unanticipated or out-of-sequence developments proposed through the private plan change process.

Things to be aware of

The requirement for regional councils to include criteria in their regional policy statements for determining what plan changes will be treated as adding significantly to development capacity should ensure that local authorities can focus resources and attention on opportunities that will support well-functioning urban environments. For example, focusing on large-scale opportunities instead of dedicating resources to requests for plan changes for small parcels of land that would not yield a large increase in dwellings or business land.

The criteria will need to align with the higher-level objectives of the NPS-UD. Criteria could include an assessment of the development capacity proposed against demand identified in a housing and business development capacity assessment, the scale of development appropriate to support a well-functioning urban environment in that city or town, and the ability to service the development with infrastructure.

To create significant development capacity, a proposal should be able to demonstrate how infrastructure is committed and how it will be provided because development capacity includes 'the provision of adequate development infrastructure to support the development of land for housing or business use' (see the definition of development capacity in clause 1.4).

The inclusion of criteria on significant development capacity will ensure transparency about how an assessment will be undertaken to determine significance under policy 8.

The NPS-UD requires councils to respond to out-of-sequence development proposals. Councils will need to review their policies relating to unplanned and out-of-sequence development and in some cases, their policies will need to change to implement the NPS-UD. For example, a hard rural urban boundary without the ability to consider change or movement of that boundary would not meet the requirements of the responsive planning policy.

Additional support

Guidance on the responsive planning policies is being developed. The guidance will provide examples of how to assess if a development proposal contributes to a well-functioning urban environment, if it will create significant development capacity and if it is well-connected along transport corridors. Guidance will be also provided on the types of criteria that could be considered for inclusion in regional policy statements. This additional guidance will be made available on the Ministry for the Environment's [website](#).

Fact sheets in this series

This is one of a series of seven fact sheets providing an overview of the National Policy Statement on Urban Development.

The full set of fact sheets is available on our website: <https://www.mfe.govt.nz/more/towns-and-cities/national-policy-statement-urban-development/guidance-implementation-of>.

Find out more

Contact the Ministry for the Environment by emailing npsurbandevelopment@mfe.govt.nz, or visit: www.mfe.govt.nz/contact.

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