

RMLA Presentation - Dr Claire Kirman

Kāinga Ora - Homes and Communities

National Policy Statement - Urban Development - Implementation
effects of the key shifts in the NPS-UD



Key shifts of focus on are:

- ▶ Recasting of the amenity concept; and
- ▶ Increasing the profile of urban development capacity impacts in plan-making.



Re-conceptualisation of the amenity concept

The concept of ‘amenity’ and ‘amenity values’ and the propensity of those terms to be used in a way that favours protection of the status quo over change is something that has been discussed much of late.

For example

- ▶ the Beca Report *Enabling Growth - Urban Zones Research: Key Observations, Findings and Recommendations* (August 2018) (at p.2):

the barriers to facilitating development appear to be from the emphasis local authorities put on the ‘present state’ and built form of amenity, rather than any future environment that would result in an area, and the social and physical infrastructure parts of amenity.





- ▶ Resource Management Review Panel concluded that within a reformed system a shift must be made such that there is no longer more weight placed on existing community values over future community needs
- ▶ Indicative drafting of the new Part 2 (purposes and principles) for the Natural and Built Environments Act, refers to “*the enhancement of features and characteristics that contribute to the quality of the built environment*” in the new section 7(f).
- ▶ The term ‘amenity’ itself is noticeable through its absence in these draft provisions.

Re-conceptualisation of the amenity concept cont...

The NPS-UD includes a new objective and policy which establishes that:

- ▶ Higher order planning directives which emphasis that amenity values can change over time, and
- ▶ That quality urban development offers opportunities for changes to amenity which can better support communities and their values.
 - ▶ **Objective 4:** *New Zealand's urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.*
 - ▶ **Policy 6:** *When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:*
 - (b) that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:*
 - (i) may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and*
 - (ii) are not, of themselves, an adverse effect*

- ▶ It is too early to determine what the impact that this new objective and policy in the NPS-UD will have in terms of how ‘amenity’ and ‘amenity values’ are considered in an RMA framework.
- ▶ At the very least the NPS-UD will further encourage a recognition that the RMA itself does not define ‘amenity’ or ‘amenity values’ in a way that builds in a presumption for the status quo.





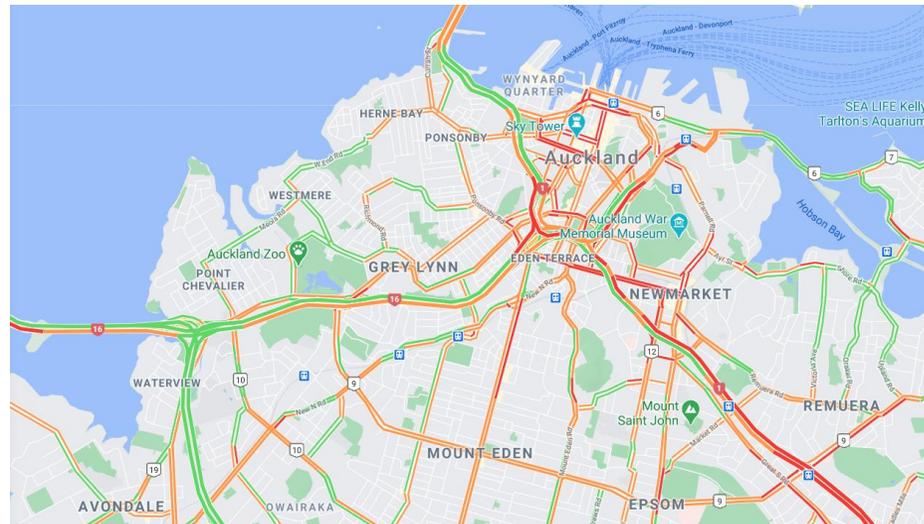
- ▶ it is worth noting that this change in how we conceptualise ‘amenity’ (with the support of clear national direction) is clearly able to be achieved within the parameters of the current system
- ▶ this is evidenced in the recent *Summerset Villages (St Johns) Limited v Auckland Council* [2019] NZEnvC 173 decision

Two passages from that decision in particular are worthy of note

- ▶ *We have reached the view that the consent as now proposed by the applicant is appropriate and properly balances the interests of intensification with the need for compatibility with the residential environment and impacts on visual amenity. Overall, we are satisfied that the activity constitutes an urban built character of predominantly three-storeys and therefore meets the policy of the Plan and other policies and objectives of the Plan generally. (para 80)*
- ▶ *Fundamentally we do not accept the proposition that the change envisaged under the UPS and AUP can be countermanded by reference to the existing residential amenity without a reference to the plan changes that are envisaged in terms of the UPS and AUP. To determine the residential character without reference to the UPS and the AUP would be a failure to properly administer both the Unitary Plan and the Policy Statement in terms of the requirements under s 104.*

Understanding Urban Development Capacity effects

- ▶ second key shift involves ‘up front’ consideration by decision-makers of the impact of plan-making (of any nature) on urban development capacity.
- ▶ Clause 3.11 of the NPS now requires that local authorities consider the impact of any plan changes on urban development capacity and their attendant contribution to meeting the requirements for sufficient development capacity.
- ▶ It does not presuppose an objective of maximising urban development capacity, but rather simply creates an awareness of the various impacts that planning instruments can have on urban development capacity.



Understanding Urban Development Capacity effects cont...

- ▶ Again, it is far too early to determine what the impact of this requirement will be, but evidence thus far shows that councils throughout the country are starting to include an urban development assessment as part of the plan change and plan review processes.
- ▶ A greater understanding how potential unrelated aspects of a plan can impact on development capacity will help achieve more responsive and evidence based planning.

