Submission on the NPS-UD Discussion Document

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1. Introduction

This submission is made on a personal basis. I am a professional planner, working for Auckland Council and as a Lecturer in Urban Planning (on contract) at the University of Auckland. I have worked closely with the NPS-UDC, as well as on development capacity more generally through my previous policy roles (such as Policy Manager at Queenstown Lakes District Council, 2013-2016).

The views are my own personal professional views, and do not reflect the views of Auckland Council or the University of Auckland. I have declared this submission with my employer.

The particular focus of this submission is on Section 5 of the Discussion Document, ‘Making Room for Growth’. And in particular, the subsection ‘Enabling opportunities for Development’.

There are some key flaws with the existing NPS-UDC:

1. The requirement to ensure plans provide for sufficient commercially feasible development capacity in the **long term** (30 years)

2. Requiring a margin of **20% additional capacity** in terms of plan enabled, commercially feasible housing capacity to respond to demand in the medium term (10 years).

I address each matter in turn, and provide suggested changes. In addition, I comment on the **Options for Directing Intensified Development** set out in the Discussion Document.

The submission concludes with some commentary on potential direction around particular rules that may be constraining the potential for urban areas to deliver greater housing densities and a greater range of housing types. These issues could be addressed through the use of national planning standards or national environmental standards.

As an overarching comment, the draft NPS-UD, in my view, is too ‘agnostic’ with regard to the balance sought between urban intensification and greenfield development. This is disappointing, given the government’s rhetoric around climate change. CO2 emissions from transport make up a significant proportion of the Auckland region’s total CO2 emissions, and in my view it is quite unacceptable to be effectively accepting the status quo of a roughly even split between urban intensification and greenfield development. The climate crisis demands a much more urgent prioritisation around urban intensification, to promote use of public transport and active modes and disincentive greenfield development that is heavily reliant on private vehicles. Electric vehicles may be a ‘technological solution’, but can we wait the 10 or more years required for them to potentially proliferate?
If the government is determined to continue to be agnostic on this issue, then I would hope (at the very least) that very strong expectations are established for greenfield development in terms of mitigating and offsetting emissions generated from this form of development.

However, this submission focuses primarily on urban intensification as this is where I believe the policy focus should lie.

2. Long Term Development Capacity

While there is good intent in requiring plans to provide sufficient commercially feasible development capacity over a 30 year time horizon, there are a number of challenges in practice.

The NPS-UDC requires long term, commercially feasible capacity to be calculated on present costs and values. There is some logic to this. It takes out the ‘educated guesswork’ in trying to establish what values and costs may be over the long term.

However, the flaw in this approach is that it fundamentally ignores the fact that markets change over time. It also sets up an automatic bias against urban intensification, because urban intensification often requires escalation in land values to become feasible. Conversely, it creates a bias toward greenfield rezoning.

It is also unnecessary. District Plans must be reviewed every 10 years, and more significantly the NPS-UDC requires councils to prepare Housing and Business Capacity Assessments every 3 years. This ensures that councils stay on top of evidence on their housing markets, and allows ample opportunity to recalibrate plans and planning processes to rectify any deficiency in commercially feasible development capacity that may arise over time.

Additionally, if we look to the international setting we can see no example of countries where long term commercially feasible development capacity must be provided for. For example, in the United Kingdom, the requirement is to plan commercially feasible capacity out to 7 years (close to the 10 years in the medium term under the NPS-UDC).

**Suggested Change:** Remove the requirement to provide for commercially feasible development capacity into the long term (30 years). Introduce the requirement for a high level, fluid (accounting for different scenarios) assessment of long term capacity to inform the preparation of a Future Development Strategy.

3. Medium Term Development Capacity

The NPS-UDC requires a margin of 20% to be provided in terms of commercially feasible development capacity relative to projected demand. As an example, this means that if projections show that growth will necessitate the construction of 100,000 dwellings over a 10 year period, a commercially feasible development capacity of 120,000 dwellings should be provided for in a plan.
This is too low, especially when councils seek to provide for much of this growth in existing urban areas. There are a wide range of reasons why commercially feasible development options may not be taken up. In urban areas, many property owners have no intent or no ability (lack of know-how, lack of capital) to redevelop their properties. Much of the property-owning population are not ‘rational economic actors’ when it comes to their own property. Rather, their property is their home and holds a range of less tangible values.

Because of this, a much larger margin is necessary to ensure that supply meets demand. The diagrams below from the Ministry for the Environment and the Auckland Plan illustrates the key point that the development that actually occurs is a much smaller subset than the amount of commercially feasible development capacity enabled by plans. This supports the contention that the margin needs to be much higher:

Mfe:

The Auckland Plan:
It is sometimes suggested that the need for an additional margin is not necessarily required on the basis that over time, developments will proceed that provide greater yield than a plan enables as of right (for example through the approval of an apartment tower that exceeds a maximum height rule). However, this argument neglects the fact that the opposite is true and perhaps more common – ‘under-development’ will often occur.

Related to this, the point is also sometimes made that private plan changes will occur over time, that increase development capacity. While this is true, it is hard to predict with any certainty the extent to which this will occur. Also, many of these plan changes will only enable small volumes of additional development capacity. Further, it is simply better urban planning to plan in a more integrated way for future growth in a comprehensive manner aligned with planning for infrastructure, as opposed to ad hoc, incremental planning.

**Suggested Change:**

There are 2 potential options:

1. Require an aggregate margin of 50%.

2. Require varied margins, depending on whether the capacity is provided within existing urban areas, or in greenfield locations. For existing urban areas, the margin should be 50%. In greenfield locations, the margin could remain at 20%. This recognises that the need for a higher buffer is greater in brownfield scenarios, where land is highly fragmented and landowners are much more likely to be ‘non-developers’ as compared to greenfield areas.

4. **Options for Directing intensified development**

The Discussion Document makes some good suggestions for directing intensified development. Option 1 is a descriptive approach and Option 2 is a prescriptive approach.

I favour the prescriptive approach. My key concern around Option 1 – Descriptive Approach is that the reference to higher-density residential activities being those with a ‘a concentrated bulk of buildings such as terraced housing and apartments’ is too open ended. It directs councils to technically zone for terrace housing, but if a range of development controls are implemented then it could result in low-medium density, two storey terrace housing being enabled, which is of an insufficient density.

I suggest an amendment to Option 2 – prescriptive approach. This will narrow the considerations around ‘where evidence demonstrates intensification should not be enabled’ (this wording is too loose and open ended).

My proposed amended wording (amendments underlined below) limits this evidence to RMA Section 6 matters. This sets a high bar in terms of avoiding the critical and urgent need to enable density near centres. This means that more generalised character or amenity
considerations should not override this objective. However, historic heritage, for example, could be a valid reason for doing so.

Suggested wording:

**P6C Option 2: prescriptive approach**

*District plans must:*

a) zone for high-density residential activities within an 800m walkable catchment of centres and frequent public transport stops, except where evidence related to RMA Section 6 – Matters of National Importance demonstrates that intensification should not be enabled; and

b) zone all residential and mixed use areas within 1.5 km of city centres for high-density development.

*High density is where there is a minimum overall density of 60 residential units per hectare.*

The centres that this requirement should be applied to need to be defined. My suggestion is that only Neighbourhood centres should be exempt from this requirement, given their very small scale and localized function.

5. **Further Considerations – particular rules that are constraining urban development**

Despite the existing value of the NPS-UDC (which could be improved with the suggested changes above), there remains an element of these requirements only being as effective as the intent of a council. A problem with the NPS-UDC is its lack of enforceability.

In recognition of this weakness, more directive approaches (in addition to those above) could be very meaningful. One option is to prohibit the use of density rules in urban areas controlling the number of dwellings per square metre (the dominant form of density regulation in plans in New Zealand). For example, a rule specifying a density limit of ‘one dwelling per 400 square metres’ (which means a second dwelling is only possible on a site larger than 800 square metres).

This would mean that councils will not be able to regulate density. A specified alternative option could be for councils to utilize ‘Floor Area Ratio’ (FAR) as a means of controlling development intensity on sites.
FAR controls are much more flexible than density rules that limit dwellings per square metre, are much more readily able to enable a greater variety of housing types, and more readily able to deliver more affordable housing options – all while still being able to manage the overall intensity of development on sites and impacts on the environment and neighbours.

A good example of the use of FAR is Portland, Oregon – widely regarded internationally as a leading urban planning constituency.

For example, rather than a rule of ‘one dwelling per 400 square metres’, a FAR rule of 0.3 could be applied in low density zones. As an example this would mean on an 850 square metre site, one large house of 255 square metres could be built (850 x 0.3 = 255), two medium sized townhouses each of 122 square metres could be built, or three smaller townhouses each of 85 square metres could be built.

The Discussion Document raises the question whether height in relation to boundary rules in high density zones could be prevented from being used.

In principle I support this idea. It is very difficult to deliver high density development in a high density zone with the retention of height in relation to boundary rules, even if these rules are more liberal than in lower density zones.

However banning these rules in high density zones risks unintended consequences arising. Do councils ‘down zone’ existing high density zones to medium density zones in order to retain height in relation to boundary rules? Might some councils not go as far with higher density zonings in order to retain the ability to apply these rules? Can these issues be reconciled? This needs to be considered further, however the requirement of the NPS-UDC to ensure sufficient commercially feasible capacity (with a higher margin as suggested in this submission) is one thing that could help mitigate this risk, as it would limit the ability of councils to ‘downzone’.