



# CLUTHA DISTRICT COUNCIL

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30 June 2016

## **SUBMISSION TO THE MINISTRY FOR THE ENVIRONMENT**

### **CONSULTATION DOCUMENT – PROPOSED NPS ON URBAN DEVELOPMENT CAPACITY**

#### **Introduction**

Overall, Council does not consider there to be the need for a national policy statement to address issues that only affect a portion of the cities and districts within New Zealand. These should be addressed appropriately through Regional Policy Statements, City and District Plans.

In formulating the Council's submission, it is noted that the Clutha District fits within the "All local authorities" category and is not in a medium or high growth urban area, as defined by the Proposed NPS. The Council has therefore limited its submission to only those objectives and policies that apply to the relevant category we are in.

The Council also acknowledges the supporting material contained with the consultation document, which shows some understanding of the issues the NPS is trying to address. It fails however, to fully analyse the current tools available in the RMA and LGA. The only real mention is the proposed changes to sections 30 and 31 of the RMA as sought by the Resource Legislation Amendment Bill, but acknowledges that these sections, if enacted, could stand alone and not require a NPS on the issue.

The consultation document and proposed NPS also has an underlying tone and assumptions that councils do not have an understanding of the housing supply and demand issues. This Council strongly refutes this and notes that the Council's role under the RMA and former Town and Country Planning Act has very much been to provide for all land use activities through such tools as zoning, but in doing so, manage the effects of various land uses on the environment. Achieving this balance within the constraints of the law is not always easy and is often challenged by developments in areas where environmental values are high. This balance needs to be maintained in accordance with the philosophy of the RMA and a NPS on urban development should not serve to trump other competing needs.

#### **Specific matters**

Objective Group A – Outcomes for decision making

The three outcomes sought are already provided for within the Clutha District Plan. We do not consider that these objectives are required as they do not provide any additional direction that is not intended under the RMA.

#### Objective Group B – Evidence and monitoring to support decision-making

The objective stated is somewhat vague, but the requirements of sections 32 and 72-76 of the RMA clearly address these matters. This objective is therefore not required as the RMA already provides adequate provision for this.

#### Objective Group C – Coordinated evidence and decision-making

The RMA already addresses this through cross boundary provisions in section 75, and to a lesser extent, section 80, along with Local Government Act planning requirements. This objective is therefore not required as the RMA already provides adequate provision for this.

#### Objective Group D – Responsive planning

It is difficult to see how different terms can be provided for in a static planning document. Zoning provisions, including deferred zoning, can only be enacted once various things have been resolved, therefore the ability to do this already exists. Specifying different terms to cater to the market activity is difficult to achieve under current Schedule 1 RMA plan making provisions, let alone with the proposed streamlining or collaborative planning processes that may take even longer. Furthermore, the resource consent process is the tool available to allow for activity to be established where plan provisions do not allow it as a permitted activity. This tool has been used for more intensive development in rural areas of the Clutha District. Again the Council does not see the need for these objectives when other tools are available and where there is reliance on external matters for development to occur in certain timeframes.

#### Policy PA 1: By decision-makers:

- *Providing for an urban form that maximises the potential for social and economic exchange within the urban area.*
- *Providing for the efficient use of resources, having particular regard to scarce urban land and infrastructure.*
- *Enabling the competitive operation of land and development markets.*

The above policies contain various uncertainties and assumptions. Social and economic exchange has been greatly advanced by technological advances and it is ambitious to assume that urban form will greatly influence this. If the policy was enacted to meet its intent, then mixed use zones would be the outcome in the hope that it would achieve the desired outcome, but with consequences around adverse effects from incompatible activities. Certain types of development however, can provide for this and many, such as shopping malls, are designed to maximise the economic exchange. District and City plans can provide opportunities for this, however should be carefully thought out so as to avoid potential conflicts that may arise.

The issue of scarce urban land and infrastructure is not defined and is entirely subjective. For example, is land zoned for residential development, but yet to be developed, considered to be scarce? Is infrastructure that is unaffordable for a

community because of financially imposed limits on Council spending considered to be scarce? It could also be argued that highly productive land should be protected for productive purposes in order to “provide for the efficient use of resources”, therefore limiting potential development opportunities. This policy needs to be carefully thought out if it is to be retained.

It is difficult to see how district and city plans can provide for competitive operation of land and development markets when this is primarily market driven. We also note that section 104 of the RMA specifically precludes trade competition for resource consent consideration, so this policy would appear to be contrary to the intent of the Act.

*PA2: By local authorities providing at all times sufficient residential and business development capacity for the short, medium and long terms.*

This policy is ambitious and it is difficult to see how a district or city plan could achieve this, other than through deferred zonings with specified timeframes on them. Second guessing the capacity required in 30 years is somewhat pointless when economic cycles are generally 7-10 years apart and the expected tenure of a district plan is 10 years. The Council does note however, that infrastructure planning is required over a 30 year period under the LGA, however part of this is around infrastructure replacement and any capacity issues are usually factored into these. If this policy is to remain, then the alignment with infrastructure planning needs to be included, much like policies PC1 - PC3, which only apply to medium and high growth areas.

*PA3: When considering the effects of urban development, decision-makers must:*

- *Recognise and provide for the contribution that urban development will make to the ability for people and communities and future generations to provide for their social, economic and cultural wellbeing.*
- *Provide sufficient development capacity, whilst maximising the positive effects of development, and minimising the adverse effects of development.*
- *Have particular regard to the positive effects of urban development at a national, regional and district scale, as well as its local effects.*

The first policy essentially replicates section 5 of the RMA and only specifically mentions urban development to make it a more deliberate consideration. The Council considers this is not required as section 5 allows for this anyway and has been enacted through city and district plans through zoning and other provisions.

The second policy is an expansion of policy PA2 above and again reiterates provisions already contained in the Act. The Council considers that it is not required as it does not add any value to the NPS.

The last policy is asking too much in terms of low growth councils having to consider the positive effects of any urban development at a national and regional scale. This would seem an onerous and unnecessary requirement where many such developments will be small scale and with limited positive effects on the national housing stock. There may be some benefit regionally, but only at a sub-regional level as there are often vast differences across regions. For example the effect of a

development in the Clutha district is of limited consequence to the housing supply issues in Queenstown (and vice versa).

In summary, the policies that also apply to low growth areas fail to acknowledge that what they are trying to achieve is largely already provided for by the RMA, district and city plans. The Council considers that these are superfluous, even if a NPS is still deemed necessary. They add little, if any value to areas with lower growth. The more specific policies listed under PB – PD would appear to be more relevant for medium to high growth areas, but again we consider that a NPS is not required across the entire country when the issues are of a more isolated nature.

The Council considers that a guidance document for councils with medium and high growth would better achieve the outcomes sought and that such guidance could be made mandatory for these Councils if required. The Council also considers that other changes to the Act could be made, such as those proposed under sections 30 and 31, in order to try and address the issue. However, we believe that under the current legislation, Councils have the tools available to appropriately provide for all land uses, while also managing the effects of these on the environment. The realisation of land uses also has a significant economic component that councils have limited abilities under the RMA to influence. Central government should therefore explore other mechanisms to influence these.

Council would welcome any further opportunities to consider any changes to the NPSUDC.

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