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**Proposed National Policy Statement on Urban Development Capacity:
Submissions by ECO NZ**

1. Introduction

Who we are

The Environment and Conservation Organisations of NZ (ECO) is the national alliance of 50 or so groups with a concern for the environment and conservation. ECO has been involved in issues of environmental management and practice, law and policy since its formation in 1971-2.

In our role as the organisation of organisations with a concern for the environment, we also maintain a close watch on issues of process and participation. This includes access to decision making and information, fairness and openness of process.

This submission has been prepared by members of the ECO Environmental law and management working group in consultation with some relevant ECO members and Friends of ECO, experts. As noted below, we have some further comments to add to this submission and would like to be heard.

Please contact eco@eco.org.nz and ECO at 04 385 -7545.

2. Key issues and generic points

- 2.1 We support in principle that more national policy statements (NPS) mechanism under the RMA are required to provide national guidance in the planning for New Zealand urban areas.
- 2.2 There is a significant increase in land prices and consequently dwelling price rises have occurred in a number of urban areas in New Zealand.
- 2.3 ECO doubts that the proposed NPS UDC will be an effective influence on the price of land and overall land supply for housing and business in our towns and cities. In some areas it is foreseeable that the NPS UDC will actually increase prices of greenfield land prior to subdivision.

Whilst the zoning of land is a factor in land prices, so too are other factors, such as the rate of household formation, immigration, emigration, cyclical economic activities, the availability of and demand for money and credit, tax policies for capital, income and expenditure, political instability or stability here and elsewhere, and numerous other variables. A great many of these variables are beyond the control of local authorities, yet they seem to be being expected to know better than markets and than central government what these are. The central government and other agencies (eg the Reserve Bank) have much more control on the policy levers for these other variables.

Other non-RMA elements affect land supply and the subsequent prices of land. These non-RMA elements include but are not limited to land banking by developers, restrictive private property land covenants imposed by developers that allow only large expensive houses, and high building costs. These and other wider economic issues such as low interest rates, tax free gains on property investment and zoning restrictions limiting intensification within urban areas, will not be addressed with the Proposed NPS UDC.

The proposed National Policy Statement on Urban Development Capacity (proposed NPS UDC) ignores these other variables and the policy levers beyond the control of local authorities. The overall prices of dwelling and business land do not simply reflect land zoning.

There seems to be a very weak link between reducing regulatory barriers and dwelling affordability. The proposed NPS UDC is not a powerful tool that will actually make urban environments work better, increase dwelling supply and increase the income of people being housed. A far wider set of RMA and non RMA tools are required to address housing affordability in New Zealand.

- 2.4 **The proposed NPS UDC fails to incorporate the full set of considerations that the Purpose and Principles of the RMA require. As such, we believe that it fails to comply with the RMA.** In particular, there is little or no mention of the requirement in Part II for Sustainable management of natural and physical resources”.

The RMA’s s 5, Purpose, says:

(1) The purpose of this Act is to promote the sustainable management of natural and physical resources.

(2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while:

- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and**
- (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and**
- (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.**

The Proposed NPS UDC says little about the “protection” of natural and physical resources, says little if anything about health and safety and virtually nothing about subsections 5.2.a-c.

Similarly, the Sections 6-8 find little expression in the NPS. That is unacceptable.

- 2.5 The greatest threat to New Zealand’s settlements, is climate change, or, more properly, climate destabilization, sea level rise, more turbulent weather, more floods, storms and droughts. The provision for attention to these matters is lacking in this Proposed NPS. Consideration of these problems when providing development capacity that is vulnerable to these hazards is not required. We appreciate that the Resource Legislation Bill does have a proposed new section on natural hazards, but the rules presented in this Proposed NPS is silent on these vital matters.
- 2.6 Too often in the Proposed NPS, social, cultural and environmental considerations are subjugated to “efficient” provision of business and housing development capacity – with an emphasis on business interests.
- 2.7 The Proposed NPS does refer at times to minimising effects, but fails to require the full set of considerations in 5.2.c, of avoiding, remedying or mitigating.
- 2.8 **In ECO’s view, as discussed above, the Proposed NPS is inconsistent with the RMA’s Purpose and Principles and fails to require the full set of matters to be considered and had regard to.**

- 2.9 The proposed NPS UDC does not address the drivers of increased demand for dwellings. At present a very large number of dwellings are being bought by investors both those residing in New Zealand and overseas. The lack of affordable dwellings for New Zealanders relates to the type of dwellings being built and the demand that investors are putting on our dwelling stock. This leaves the young, old and low income New Zealanders unable to compete either in the rental market or in property purchase. Those agencies with the policy levers for the drivers need to take action – it is a nonsense to expect local authorities to address drivers of demand that are outside their powers and functions.
- 2.6 ECO agrees that urban environments are complex and we welcome more rigour in monitoring, gathering evidence and analysis. However this proposed NPS UDC won't necessarily make urban areas work better or have acceptable amenity for people to live, work and play in. Planning for future housing or business development needs to be an integrated process addressing all elements that make a successful, liveable town or city. "Efficiency" is insufficient.

3 Specific Suggestions and Points:

- 3.1 We recommend provisions relating to the full set of the elements of the Purpose of sustainable management and all elements of S5.2 of the Act to be included in the various levels of provision for, regard to be had, and consideration of the matters in S6-8 of the Act. These include the following, many of which are not addressed in the Proposed NPS rules.

6 Matters of national importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

(a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:

(b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:

(c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:

(d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:

(e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:

(f) the protection of historic heritage from inappropriate subdivision, use, and development:

(g) the protection of protected customary rights.

7 Other matters

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

(a) **kaitiakitanga:**

(aa) **the ethic of stewardship:**

(b) **the efficient use and development of natural and physical resources:**

(ba) **the efficiency of the end use of energy:**

(c) **the maintenance and enhancement of amenity values:**

(d) **intrinsic values of ecosystems:**

(e) *[Repealed]*

(f) **maintenance and enhancement of the quality of the environment:**

(g) **any finite characteristics of natural and physical resources:**

(h) **the protection of the habitat of trout and salmon:**

(i) **the effects of climate change:**

(j) **the benefits to be derived from the use and development of renewable energy.**

8 Treaty of Waitangi

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the [Treaty of Waitangi](#) (Te Tiriti o Waitangi).

3.2 We suggest that the full set of considerations in Part II of the RMA must be brought to bear in this Proposed NPS UDC, or the NPS will be inconsistent with the Act. The quality of the built environment should to be considered in the objectives and policies in this proposed NPS UDC since these influence the ability of urban areas to achieve these Principles 6-8, as well as the Purpose in S5. Good quality urban design is an essential component of the success of a town or city and needs to be an integral part of land and development capacity decision making.

Good quality urban design has a significant influence on how people live in cities, cultural and social life, health and safety, and ultimately the economic performance of cities.

3.3 There are intergenerational disadvantages of creating poor quality urban areas with isolated communities, lack of multi modal transport networks, lack of social

infrastructure, low quality public spaces and high dollar/time cost connection to employment and social engagement.

- 3.4 ECO supports the use of strategic urban design and spatial planning for the successful development of New Zealand's urban environment. However good quality strategic urban design and spatial planning is not just limited to solely addressing the provisions of development capacity for housing and business land. There is a great deal more to New Zealand's urban areas that requires further analysis in this NPS.
- 3.5 The considerations of impacts of land use changes and provision of urban development capacity need also to pay heed to environmental impacts including cumulative impacts, and the fostering of native biodiversity and native species for health, wellbeing and cultural reference as well as for its own sake, for ecosystem functions and for compliance with international obligations and enabling future generations to meet their reasonably foreseeable needs.
- 3.6 ECO is concerned that the proposed NPS UDC will promote greenfield sprawl on the edges of our towns and cities. It appears not to be limited to greenfield areas but is not clear about this. Peripheral greenfield development is not a sustainable solution for our urban areas. Sprawl will increase our carbon emissions and put further pressure on our environment. It will make housing on the edge of our cities unaffordable due to increased transport costs and put further pressure on our transport systems. Greenfield sprawl is a lose-lose situation in respect to transport as with low density urban greenfield sprawl there is less likelihood of a good public transport system to and from these suburbs. The NPS needs to address developments with appropriate infrastructure including multi modal transport including walking, cycling and public transport.
- 3.7 The proposed NPS UDC would be strengthened by the addition of a clear link between creating 'sufficient residential and business development capacity' to meet demand and creating the sufficiency of affordable housing for unemployed, low wage or even medium waged New Zealanders. The proposed NPS UDC aims as stated in its preamble to '*help reduce regulatory barriers to the supply of housing and reduce the cost of housing relative to income*'. The links between the proposed NPS UDC purposes, objectives and policies are weak and the mechanism for addressing hardship and inequality needs to be provided clearly.
- 3.8 The proposed NPS does not address the issues of infrastructure and changing social infrastructure in stagnant and declining urban areas. It would be strengthened by provisions for addressing the present dwelling crisis and dwelling affordability. The proposed NPS UDC essentially relates to monitoring, collecting evidence and co-ordination of planning decisions. Not all urban areas are facing rapid growth and many are stagnant or declining.
- 3.9 ECO agrees that all local government (both regional, local and unitary councils) needs to plan and respond to growth (or decline) in relationship to land use, social infrastructure and physical infrastructure. This requires co-ordination and investment (both existing and planned) to enable residential and business development to occur.

- 3.10 ECO agrees that local government needs to consider different timeframes (short, medium and long-term) of development. ECO considers that it is at this time that it is ideal to plan for carbon neutral urban growth.
- 3.11 The timeframes as proposed in the proposed NPS do not reflect the considerable lead-in time for major infrastructure and social infrastructure which often makes it difficult for local authorities to respond as quickly as suggested in the proposed NPS UDC. We suggest that this be reviewed.
- 3.12 The proposed NPS UDC would be strengthened and given some realism if it addressed how infrastructure and social infrastructure and ongoing maintenance are to be funded. Greenfield developments and intensification of existing urban areas will require that infrastructure and social infrastructure are upgraded to accommodate increases in dwellings and business.
- 3.12bis The Proposed NPS will be more aligned to the Purpose of the RMA if the scope is broadened to include 'social infrastructure and environmental protection' and social infrastructure providers and protection of the environment.

[Continued below – apologies for some formatting problem here.]

- 3.12 The proposed NPS UDC preamble comments on the importance of a successful city and the need for good accessibility between dwelling, business and social infrastructure. The NPS UDC is however silent on social infrastructure. This was requested in the Regulatory Impact Statement for this proposed NPS. The co-ordination of new or future intensive housing areas with social infrastructure providers such as the Ministry of Education is vitally important. This is particularly significant when the pressure put on road infrastructure is considered in the transportation of children to and from schools. Social infrastructure placed inappropriately or too late in an urban greenfield or intensification area will put significant and unnecessary pressure on transport infrastructure. Social infrastructure also creates a community if it is placed in convenient locations where there is access to all not just those who can drive a motor vehicle.
- 3.13 It is unclear to what extent the processes required under the proposed NPS, which are reasonably onerous for smaller local authorities in terms of assessments/monitoring required (for example), will duplicate or cut across similar processes that may already be undertaken or planned by other agencies. Most local authorities lack the macroeconomic forecasting capacity and other tools for the demands this NPS places on them. The NPS places an unfunded mandate on these councils which would be much better done by the central fiscal and monetary agencies, and other central government departments. We think it is unreasonable and unfair to place such a huge burden on these councils.
- 3.14 There would also in the case of Queenstown Lakes District Council be a duplication in Otago Regional Council being required to understand the complexities of their Queenstown local residential market. This duplication could and would add to inconsistencies resulting in further challenges and delays in obtaining monitoring information required in this proposed NPS UDC.
- 3.15 Unreasonable too is the reliance on local authorities understanding how 'property markets' work. The processes and consultation proposed seem to use to be a recipe for vested interest capture of councils, and to enable speculative practices to be reinforced through our planning system in the proposed NPS UDC.
- 3.16 The forecasting requirements are unreasonable for local councils, especially given that it is clear with the present housing crisis that Central Government has not got a clear understanding of the present 'property market'. We are concerned that this may lead Local and Regional Councils unable to stop development in areas that may be planned for future greenbelts or large parks around the city e.g. similar to Wellington City greenbelt.
- 3.17 We note that no methods are proposed to ensure a development is done once the land is rezoned. We do not favour compulsion, least of all of people to relinquish areas of significant natural values or their own residences and farms.

- 3.18 There is nothing in the proposed NPS UDC giving local councils the tools to require developers to provide housing at certain price points. The recent Housing Accords and Special Housing Areas Act 2013 (HASHA) have not made any significant change in the housing affordability crisis in Auckland. The HASHA legislation has however shown that there is a profit to be made when land owners up-value their land through a zone change through the HASHA rezoning/consent processes and then land bank it. Subdivision consents granted through the HASHA legislation have not generated more houses but the land has been on-sold to land bankers waiting till the time it is right to drip feed inflated-price land and dwellings onto the market
- 3.19 Our expectation of the HASHA legislation suggests that the NPS UDC will make little impression on addressing the present housing crisis as developers have no incentives to reach a capacity level in housing. The exception is the comprehensively planned developments in Hobsonville in Auckland managed by the Hobsonville Land Company (formally a Housing New Zealand Corporation company).
- 3.20 The proposed NPS UDC is unhelpful in respect to maximum building capacity. Zones act as ceilings as to what can be built up to. There is nothing stopping the building of less than the zone maximum (one storey in a zone with a ten storey limit) or for that matter nothing. The proposed NPS UDC monitors the maximum that can be built but provides no other incentive to actually build to that maximum to realise that capacity.
- 3.21 The Proposed NPS UDC would be more effective at increasing capacity in high density zones if minimum heights or densities as well as maximums are specified.
- 3.22 ECO believes that further guidance in the form of a National Environmental Standard is required to provide a consistent methodology for assessing capacity to reduce significant differences which could occur in calculating capacity across Local Government Authorities.
- 3.23 Changes from brownfield land, be it business or residential, to a more intensive use, is inevitable in a growing urban area. But the greatest change occurs in uses within buildings, in the building form and in lot size. The fewest urban form changes occur to the block and road patterns. It is unclear whether the more “internal” changes are being considered in this proposed NPS UDC.
- 3.24 ECO wonders whether there needs to be a definition of “business land” in New Zealand in the NPS? Each Council may have a different definition, planning objectives, policies, rules and assessment criteria. “Business development capacity” could refer to any number and form of business, including farming, tourism and more compact businesses.
- 3.25 ECO has major concerns over the section on Responsive Environments. The policies and objectives need major re-writing as there are fundamental issues of unresolved policy in this section. A number of the policies may actually increase land prices rather than decrease them. Further work is therefore required on this section.

4 The Proposed Policies (s6 of the Proposed NPS UDC)

NOTE: It would be much easier for submitters and submission readers if MfE used numbers, not bullet points in the sub-parts of the Policies. We will refer to PX.1.y, where the X is the relevant letter and the y is the subsection or bullet point.

4.1

All the elements of these policies need to be “subject to Sections 5-8 of the Act,”

PA1.1 This omits reference to cultural exchange, and fails to impose the provisos of S5 of the RMA. These should be added in to comply with the Act.

PA1.3. Markets usually are competitive, so the word “competitive” can be omitted. Any market operation though, will fail to efficiently or equitably allocate any aspects of land or the environment that are non-excludable, so planning and regulation will always be needed for an economically efficient outcome. Further, in the case of housing, it is very clear that New Zealanders regard housing as a merit good that we the community and state should supply when it is otherwise unobtainable by those who live here. These points need to be reflected in the NPS.

PA2 This stipulation is likely to mean that there is overprovision of development capacity and that is likely to be at the expense of the natural environment. Frankly, we do not want to see land needlessly “developed”.

PA3.2 This is inconsistent with the RMA Purpose, since the requirement is to “avoid, remedy or mitigate”, not to “minimise” the adverse effects of development.

PA3.3 It is illogical and inconsistent with sensible decision making to consider only the “positive effects” , not all effects, positive and negative. We suggest the deletion of the word “positive” so that all are considered.

PD2 We disagree that the consideration of provision of the business and dwelling development capacity should trump all other considerations. We believe that the provisions in this and other Policy Sections will have the effect of overriding, or attempting to override, the provisions of Part II of the RMA. As such that is political and legal sleight of hand and we urge you not to do that. We do not think that so-called “undeveloped land” should be automatically up for grabs for business or housing purposes. We recommend that instead, the requirement be to institute sustainable development principles and practice, not simply to expand the footprint of urban areas.

We urge that throughout the Policies, there is due process and consultation with the public, not simply those with immediate vested interests. The provisions as they stand are too often undemocratic and invite government failures, moral hazard and regulator capture at the expense of society at large.

5 ECO hopes to provide you with some further comments as part of this submission, including some specific redrafting.

Conclusion

Thank you for the opportunity to make this submission. ECO wishes to be heard in support of this submission please contact Michael Pringle at 04-385-7545 or eco@eco.org.nz.

Yours sincerely,

Cath Wallace
Vice-chair of ECO