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Proposed National Policy Statement on Urban Development Capacity

Local Government New Zealand's submission to the Ministry for the
Environment

15 July 2016

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We are. LGNZ.

LGNZ is the national organisation of local authorities in New Zealand and all 78 councils are members. We represent the national interests of councils and lead best practice in the local government sector. LGNZ provides advocacy and policy services, business support, advice and training to our members to assist them to build successful communities throughout New Zealand. Our purpose is to deliver our sector's Vision: "Local democracy powering community and national success."

This final submission was endorsed under delegated authority by Malcolm Alexander, Chief Executive, Local Government New Zealand.

We would like to be involved in the process to finalise the NPS.

Introduction

Thank you for this opportunity to submit on the proposed National Policy Statement (NPS) for Urban Development Capacity. LGNZ appreciates the engagement with officials to date as the proposed NPS has been developed and would like to continue to be involved as it is finalised. If this NPS is to progress, LGNZ is very concerned to get the detailed wording of the policies "right." Without doubt, this NPS will be subject to litigation. The case law resulting from the New Zealand Coastal Policy Statement illustrates the weight these particular prescriptive and directive policies will carry, and also that resort to Part 2 matters will not be possible when considering applications in the context of such directive objectives and policies.

LGNZ does not consider this NPS is necessary. In the cities/districts which are already experiencing high growth, mayors from these cities have already said publicly they are already doing what the proposed National Policy Statement will require them to do and it is not just a land supply problem.

By way of examples, in the cities identified as "high growth":

- In Auckland, there is sufficient "ready to go" greenfield land, zoned, with bulk services in place, to meet housing development needs for the next 7.4 years. And under Auckland Council's proposed unitary plan, Auckland will have a Rural Urban Boundary (RUB) with enough land for around 30 years of expansion outside the current metropolitan urban area but inside the RUB.
- In Tauranga, at 31 December 2015 there were 9,350 greenfield sites which are projected to accommodate around 9.5 years of growth. This is 83 per cent of the projected demand over this period, and the balance of demand will be accommodated via a new focus on infill development and intensification. Where bulk services are not currently in place, necessary infrastructure is planned and scheduled to be provided as required.
- In Hamilton, there is between approximately 7 year and 10 years of residential land supply with services in place, depending on the rate at which residential land development occurs. Funding in the current Long Term Plan for growth infrastructure will increase that supply between an additional 5-10 years. Hamilton City has structure planned, zoned and funded all of its greenfield growth cells and also has a planning framework that encourages infill development in established parts of the City.
- In Queenstown, there is sufficient urban zoned land to cater for an additional 10,000 homes which, based upon population projections, will be sufficient beyond 2045. As of March 2015 there is zoned capacity for approximately 17,000 additional sections / dwellings within the entire Queenstown Lakes District and capacity to service all of the current urban zoned land.

- In Christchurch, as noted by the Productivity Commission¹, “the Canterbury rebuild appears to be on track to provide a sufficient supply of housing in the near future.” Projected growth for Christchurch is an additional 23,700 households by 2028. There is estimated to be vacant residential land for 25,000 households and 15,000 through infill and redevelopment. Therefore, there is sufficient capacity to absorb this growth, at least in the medium term.

The Government has few policy levers to address housing affordability on the supply side – key policy levers are on the demand side.

In our view, policy tools alone won’t be sufficient and we hope the Government will decide that a coordinated approach is needed on a range of matters critical to increasing the supply of land and new houses, and to address rapidly escalating housing prices.

The NPS seeks (at Policy PA1) that decision makers “enable the competitive operation of land development markets.” There is an assumption that through increasing the supply of land (and housing) will lead to an increased supply of housing that is more affordable. This assumption underpins the NPS. However, what is needed are effective ways to encourage developers to bring more sections to the market and to encourage more low-cost homes. The NPS is silent on this. A statute (repealed not long after it was enacted), attempted to tackle this. The Affordable Housing: Enabling Territorial Authorities Act 2008 recognised that increasing supply would not necessarily lead to housing that is more affordable. This Act voided covenants and enabled local authorities to require persons doing developments to facilitate the provision of affordable housing. Immediate focus is needed on how to incentivise developers to provide low-cost housing. There is no evidence that a focus just on supply will meet the Government’s objective – if this is in fact an increase in the supply of housing that is affordable.

In particular, we see a focus needed on six areas: 1) funding and financing of infrastructure; 2) addressing land-banking; 3) Urban Development Authorities with local government involvement; 4) tax regimes that de-incentivise investment and speculation in residential property; 5) addressing a skills shortage in the construction industry; and finally 6) addressing an uncompetitive market for building supplies.

One of the most important priorities for local government is to address the question of why residential-zoned, serviced land is not being released to market at the rate sufficient to meet market demand. There are two main reasons for this: first the challenge of financing and so providing the essential trunk infrastructure, such as roads, water and sewage, to ensure that land is ‘ready to go’; and second the practice of so-called ‘land banking’.

These examples illustrate our contention – that other matters are at play which prevent/restrict land and houses coming to the market in quantities sufficient to meet the demand. For local government, the most critical matters are infrastructure funding and financing, land-banking and exploring the role that Urban Development Authorities might play.

Infrastructure – funding and financing

LGNZ’s reading of the NPS is that it is unclear whether it is requiring local authorities to provide infrastructure to support additional development capacity where monitoring indicates that development capacity is insufficient. The direction provided is uncertain because the definition of development capacity (which includes infrastructure) is passive (ie enabling) but the policies (PD1 – 4) appear to be directive in terms of requiring the provision of that development capacity. This ambiguity needs to be removed and the definition and policy aligned.

¹ New Zealand Productivity Commission: Using Land for Housing September 2015, p 21

While LGNZ considers that you must read the provisions in a way that does not result in local authorities being required to provide infrastructure, this could be clearer. Given the requirements in terms of council decision making and spending within the LGA (including those provisions that relate to development contributions), LGNZ considers that the NPS cannot legally require the provision of infrastructure. As a national instrument under the RMA, an NPS has no influence over the decisions made under the LGA about where and when investments will be made in infrastructure.

Noting the concerns above around the lawfulness of such requirements, if the Government's legal advice is that the NPS is able to provide such direction, then the direction needs to be crystal clear as to how that is to be achieved.

Infrastructure funding and financing is a challenge for councils. Time will tell as to whether the NPS will exacerbate the challenge – it certainly supports the case that LGNZ has made that funding and financing of infrastructure is a critical issue that needs to be addressed. Further, putting to one side the funding and decision making issues address above, the provision of infrastructure is often out of the council's control in terms of matters such as the National Grid and without investment in those areas in parallel to policy direction through the NPS, development capacity will not be able to be realised.

The definition of infrastructure within the NPS is also narrow. It relates only to water supply, wastewater, storm water, transport and passenger transport. This does not provide for the other infrastructure, including telecommunications, energy, and community and social infrastructure that are also required to support new development (examples of 'community infrastructure' can be found in section 197 of the LGA). The definition should be amended in this regard to better reflect the scope of required infrastructure.

The discussion document indicates that costs associated with the provision of infrastructure will be met using a combination of development contributions and rates (the new ratepayer base will be provided by the new growth).

LGNZ agrees with the following points Water NZ has made in its submission to the proposed NPS:

1. Given the existing under-provision of infrastructure in some areas and the limitations on development contributions (in terms of only being responsible for a proportionate share of the growth related costs directly related to a particular development), Water NZ considers that there is likely to be a significant funding shortfall which would compromise the achievement of the urban growth capacity;
2. Given the requirements in policy PD1 to provide development capacity (which includes infrastructure), in the short, medium and long term, ratepayers could end up footing the bill for infrastructure which is not required for another 20 or 30 years; and
3. An over-reliance on development contributions may effectively undermine the policy intent of increasing housing affordability by passing the infrastructure capital costs onto the end consumer (through increased section prices).

Our Local Government Funding Review highlighted the need for funding options that will incentivise councils and communities to invest in infrastructure to enable more growth. One way of achieving this would be to allow councils to retain a share of any value uplift arising from a change in economic activity, including a change of zoning from rural to residential – the value uplift potentially being used to fund new infrastructure. At present, that gain goes directly to landholders (hence the incentive to landbank).

With regard to financing the construction of new infrastructure, councils will generally raise debt. Yet a number of the councils facing growth pressures are already at, or close to, the debt levels prescribed in the Government's Financial Benchmarks. While these are not mandatory caps, exceeding them does expose councils to a range of risks and criticism. In LGNZ's view the debt benchmark is too conservative for the fast growing cities.

Spatial planning

The policies that apply to high growth urban areas point to regional spatial planning as possibly the best mechanism to plan for growth across a region and coordinate release of land.

A Spatial Plan should avoid subsequent consultation on matters already subject to the Plan and, critical to success, is that parties to the Plan are bound by it. Statutory change is needed to achieve this. A spatial regional planning framework would:

- generate a clear overarching vision that provides direction on the environmental outcomes we expect to achieve, clarify the rights and responsibilities of resource users and increases investment certainty; and
- increase coordination between decisions made under different statutes and the institutions responsible for administering them.

LGNZ urges the Government to work with local government on the legislative changes needed to enable spatial planning with necessary statutory weight. This points to the need to look at the relationship between the core planning statutes: Resource Management Act, Local Government Act and Land Transport Management Act.

Plan Agility – making changes to plans in a timely way

Changes to increase land supply for housing, in most districts of New Zealand, will be subject to the RMA Schedule 1 process. This process does not enable required changes to be made in a timely way. The Government has recognised the issues associated with the Schedule 1 process through the Housing Accords and Special Housing Areas Act (HASHA) and bespoke processes to create new resource management plans in Christchurch and Auckland. HASHA comes to an end in September 2016 and there is no certainty the streamlined process proposed in the Resource Legislation Amendment Bill will come to fruition. It is also uncertain in what circumstances the streamlined process would be available for plan changes to give effect to the NPSUD.

LGNZ has long advocated that the RMA should be amended so that certainty can be provided for all parties: the process to amend plans is too time consuming and expensive. Where a local authority is required to provide additional land supply by the NPS, the tension created by the RMA will be readily apparent. Councils will hit a roadblock and parties will be frustrated.

Constraints to growth

The NPS does not acknowledge constraints on urban development. Managing growth to take account of natural hazards, implications for the quality of fresh water, outstanding natural features and landscapes are all fundamental to sustainable and resilient urban development. In some regions, explicit recognition is given to the value of productive/versatile soils. For instance, in the Hawke's Bay, the settlement pattern (featuring intensification within existing urban areas and new greenfield growth areas) is a reflection of that community's preference to protect the highly valued productive capability of soils on the Heretaunga Plains.

Consultation Requirements

Consideration is needed of the direction the NPS gives to councils for consultation. The direction to Councils around consultation 'as they see fit' (Policy PB4) is potentially inconsistent with the general consultation requirements under the LGA02. This direction and/or lack of clarity as to whether it is intended to override the general consultation principles may result in uncertainty as to the robustness of decision making, in particular decisions around the new strategy documents required. 'As they see fit' could be read as requiring a decision on who they will consult within the listed group and how or simply a decision on whether to consult at all.

The same issue arises in terms of PD9 and the future land release strategy – it requires Council to ‘take into account’ views of a listed group ‘as they see fit’ – this may well result in no consultation at all and again, creates a lack of clarity with the LGA consultation principles.

Exemption Process

LGNZ seeks an exemption process whereby a council is able to apply to the Minister for an exemption to avoid the need to give effect to the policies triggered by the 5% projected growth threshold. The criteria to determine the application could include that Objective A2 is already achieved through operative planning documents.

Where a council has already undertaken a growth planning exercise involving consultation under the RMA and sometimes the LGA, and the district plan then provides for sufficient capacity, the process triggered when the 5% threshold is exceeded puts ratepayers and all stakeholders to significant expense. Other councils will be required, by these very directive policies, to redo what they are in the midst of doing. This approach needs further consideration.

There is a precedent for an exemption process in the NPS for Freshwater Management which can be used as a guide.

Detailed comments – NPS Urban Development Capacity

Structure and approach

LGNZ supports the proposed NPS in terms of its framework and the approach it takes. For many councils, it reinforces the approach already taken to planning for growth. The structure of the NPS has a logical flow, with objectives and policies clearly grouped.

LGNZ supports the approach that some subsets of policies apply to subsets of local authorities. LGNZ does not agree that some policies apply to all local authorities when the issues simply are not currently faced by the councils with declining growth and no capacity issues. This NPS should be focused on the medium and high growth areas with the other areas left out in their entirety.

The requirement in the NPS that plan and regional policy statements should be based on robust, accurate and frequently updated evidence is appropriate and is supported. The exercise, however, will be expensive and onerous and cannot be justified for those local authorities which are experiencing low growth (as opposed to medium and high growth). Those local authorities that are experiencing low growth should not be expected to undertake the same level of economic analysis as those experiencing medium and high growth.

We recommend a review of the provisions to ensure they are tightly worded, internally consistent in terms of the language used and that each provision should be in the NPS rather than in supporting guidance or better sit as an objective. We comment below on specific matters.

The NPS creates the need for additional resources to comply with the monitoring required by councils in medium and high growth urban areas. Councils have advised they will encounter difficulties in fulfilling the requirements prescribed to complete the Housing Assessments and also the quarterly monitoring.

Before adopting these very prescriptive policies, central government needs to be certain the information is available, capable of being obtained at an acceptable cost. Some of the monitoring requirements and the collation of the data needed for the Housing Assessments may be better done centrally. For example, some of the information is held by Quotable Value and dealing with a single agency (the Government) is likely to be more effective and efficient than dealing with councils individually.

To that end, LGNZ suggests that consideration be given to minimising the amount of information required to achieve compliance with the NPS, providing the maximum amount of guidance to councils (addressed further below) and exploring the potential to develop common data sources to aid councils in complying with the NPS.

The provisions relating to business capacity need to be carefully considered. These provisions are not as fully developed as those for residential land and have the potential to direct councils to undertake very onerous (and challenging) monitoring requirements.

The focus of this submission is concentrated on the detailed provisions of the NPS.

Recommendations

1. Recognise the limitations of what this NPS can achieve and commit to addressing the other matters listed above as part of a joined-up approach to housing affordability.
2. Review the NPS and focus only on urban areas having medium and high growth.
3. If the NPS is to apply to all local authorities, further clarify the level of analysis low growth areas are required to undertake.

National Significance, relationship to other National Policy Statements and Part 2 matters

The national significance statement at (4) should reflect that the focus of this NPS is development capacity. This is currently missing in the statement and it generally needs to be more tightly worded.

As it stands, the statement provides for the fuller NPS on urban development that councils asked for in the initial round of consultation: one that deals with urban development “in the round.” The NPS that is being consulted on is restricted to development capacity – and therefore needs to be reflected in the national significance statement. LGNZ supports wording along the lines suggested by Wellington City Council:

The matter of national significance to which this national policy statement applies is the need to ensure sufficient development capacity for urban areas and to recognise the importance of urban development and change in the urban environment

The relationship between this NPS, and other existing and future national policy statements and the New Zealand Coastal Policy statement need to be carefully considered. If there is conflict between the provisions of those documents, direction (or guidance) needs to be provided as to how local authorities address those conflicts when giving effect to them through their planning documents.

LGNZ questions whether this NPS, in providing direction around development capacity, is inconsistent with section 7 of the RMA and in particular the efficient use of resources. This NPS may be inconsistent in terms of elevating two land uses (residential and business land) above others and the implications of this need to be considered, particularly given the purpose of the NPS is to state objectives and policies for matters of national significance that are relevant to achieving the purpose of the RMA.

One consequence of the NPS may be allocation of land for which it is not currently required and that is not generally considered an ‘efficient’ use – it also doesn’t take account of situations where other scarce resources are being consumed, such as high quality agricultural land or other special areas. Given the weight of national policy instruments, getting this right is vital. The local government sector is keen to avoid any of the legal wrangling associated with the New Zealand Coastal Policy Statement as policies were interpreted and re-interpreted.

LGNZ also encourages a broader view of urban development than capacity issues and encourages alignment with the approach taken by the Housing Accords and Special Housing Act, which specifically refers to good urban design.

Recommendations

1. Amend the national significance statement to reflect the development capacity focus of this National Policy Statement.
2. Consider the relationship between this National Policy Statement and other National Planning documents and provide guidance as to how they are to interact in the event of conflict.
3. Ensure the approach of this NPS is legally robust and consistent with Part 2 matters.
4. Consider referencing “good urban design” in this NPS.

Objectives

Objective Group A – Outcomes for decision-making.

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

Objective Group C – Coordinating evidence and decision-making.

Objective Group D – Responsive planning.

The objectives are tightly worded but could be reworded as outcome statements ie:

OA1: Effective and efficient urban areas that enable people and communities to provide for their social, economic and cultural wellbeing.

OA2: Sufficient residential and business development capacity to enable urban areas to meet residential and business demand.

OA3: Ongoing development and change in urban areas.

OB1: Plan and regional policy statements informed by a robust, accurate and frequently-updated evidence base.

OC1: Coordination within and between local authorities and infrastructure providers in urban areas, consistent planning decisions, integrated land use and infrastructure planning, and responsive planning processes.

OD1: Planning decisions that enable urban development in the short, medium and long-terms.

OD2: Local authorities adapt and respond to market activity in the short and medium terms.

Recommendation

1. Reword the Objectives as above.

Outcomes for decision-making Policies PA1 to PA3

LGNZ supports the intent of these provisions as providing a useful policy framework for this NPS.

Policies PA1 and PA2 are structured differently to PA3. They need to be reframed with an opening because they do not make sense without an opening statement.

LGNZ supports the direction provided by these policies:

- Development capacity should be provided through a range of housing types, locations and price points (rather than solely on greenfield development);
- Recognition that resources (including infrastructure) need to be used efficiently; and
- Recognising “urban” in the framework of the RMA.

Missing from the NPS is any acknowledgement of constraints on urban development such as natural hazards, implications for the quality of fresh water, heritage, outstanding natural features and landscapes. Consideration of adverse environmental effects of development is absent. However, the summary document has a different version of PA3 which states, at bullet point one:

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, *cultural and environmental* well-being.

Including *environmental well-being* in PA3 better aligns with the framework of the Resource Management Act and the respective functions and duties of local authorities prescribed under sections 30 and 31.

An objective is a goal or an aim. It sets out an end state of affairs that is aspired to (*Ngati Kahungunu Iwi Inc v Hawkes Bay Regional Council* [2015] NZEnvC 50 at [42]). On the other hand, policies are the course of action that achieve or implement the objectives. Policies PA1 to PA3 are goal orientated and in light of the above would sit better as objectives.

Policy PA3 does not enable a balanced assessment to occur. The assessment, as required by the RMA, must include **all** effects to be assessed (positive and adverse). However, specifically referencing the effects at a regional and national scale means that the local effects are put in context and the important macroeconomic effects can be directly considered.

Recommendations

1. Amend PA3 to include environmental wellbeing.
2. Reframe policies PA1-PA3 as outcome statements and include as new objectives.
3. Include a new provision that recognises where urban development might need to be limited due to constraints posed by natural hazards or to achieve Part 2 matters.
4. Amend the third part to read: "Have regard to the effects of urban development at a national, regional and district scale, as well as its local effects."

Evidence and monitoring to support decision-making Policies PB1 – PB5

These policies apply to all local authorities that have part or all of either a medium growth or high growth urban area within their jurisdiction.

Policy PB1

Local authorities have identified there will be challenges in accessing and resourcing the information specified:

- the demand for dwellings, including the demand of different types of different groups in the population for different types of dwellings, locations and price points; and
- the demand for the different types and locations of floor area for the local business sectors, and the supply of development capacity to meet that demand, in the short, medium and long – terms.

Before including these requirements, the Government should be confident this information can be generated. We are advised that Business Land Assessments will be particularly difficult with respect to estimating the demand as prescribed by Policy PB1.

Policy PB2

Local authorities use growth projections other than and in addition to Statistics New Zealand projections. This policy should recognise this.

Recommendation

1. Amend Policy PB2 to recognise that local authorities use projections other than and in addition to Statistics New Zealand projections.

Policy PB3

There is inherent difficulty in making medium and long term projections because they are highly dependent on central government policies that influence demand, eg immigration policy and macro-economic settings which are beyond the control of local authorities.

Policy PB3 requires a very detailed assessment. LGNZ understands this is the level of analysis undertaken for the Proposed Auckland Unitary Plan. LGNZ considers that while this level of analysis may be necessary for High Growth Urban Areas, it is not necessary for Medium Growth Urban Areas.

This policy refers to (at third bullet point) “physical and commercial feasibility of development capacity” and at fourth bullet point “the likelihood of opportunities for development being taken up.”

It is not clear what “**physical** ... feasibility” means nor how a local authority will be able to determine the likelihood of opportunities for development being taken up.

Recommendations

1. Reword PB3 bullet point three so the policy is clear.
2. Work with local authorities to develop guidance to support this policy.
3. Remove the requirement to undertake the analysis in PB3 for Medium Growth Urban Areas.

Policy PB5

LGNZ is not opposed to the principle of prescribing monitoring. The proposal, however, is likely to be a source of significant compliance costs for councils. Councils have advised they will need to seek external resource to fulfil the obligations.

The quarterly monitoring requirements for local authorities are onerous and are most likely too frequent to be useful in informing planning processes. Bi-annual monitoring is likely to provide the information necessary to be sufficiently informed about the relative affordability of housing etc (as detailed in the policy).

The requirement to monitor resource and building consents relative to population growth is not a useful indicator. Resource consents and building consents are granted for a range of activities that have no relationship to population growth or business growth. More useful indicators are granting resource consents and building consents for new dwellings, new business development and s 224 certificates for new certificates of title.

Most of these data sets would appear to be available nationally - the ratio of house price to income and the relative cost to rent. Consideration should be given to central government undertaking this monitoring.

Recommendations

1. Consider which monitoring requirements can, more efficiently, be undertaken centrally and the datasets provided to local authorities.
2. Amend PB5 (third bullet) to require monitoring of resource consents and building consents that do actually reflect housing and business growth.

Responsive planning Policies PD1 – PD4

These policies apply to all local authorities that have part or all of either a medium growth or high growth urban area within their jurisdiction.

Policy PD1

This policy appears to require a local authority to provide further development capacity where monitoring indicates that development capacity is insufficient. There is currently no guidance within the policy as to how that development capacity is to be provided, or what is required to be provided by local authorities.

As set out above, one potential interpretation of this policy is that local authorities (and existing ratepayers) must fund development of infrastructure in advance of a demand. This compares with the current arrangement where infrastructure is funded by the developer as and when it is needed.

Whether the NPS can lawfully direct councils to do this is questionable and a legal review by central government is needed to ensure the NPS is not open to challenge if this is the intention. If the policy is not intended to require local authorities to provide infrastructure, which LGNZ considers to be the more likely outcome, this needs to be stated beyond any doubt or ambiguity.

In addition, the definition of 'infrastructure' within the NPS is currently framed in a very narrow way. It relates only to infrastructure for water supply, wastewater, stormwater, transport and passenger transport. It does not provide for other infrastructure, including telecommunications, energy, and community and social infrastructure that is also required before development can occur. The definition should be amended in this regard to better reflect the scope of required infrastructure.

This policy should also reflect the constraints that exist to growth including physical constraints (natural hazards, geographical constraint, capacity of infrastructure and the cost of infrastructure) as against simply requiring the provision of development capacity.

Recommendations

1. Amend PD1 to clarify what is required of Councils in the provision of development capacity and provide direction as to what is required.
2. Amend PD1 to ensure that constraints on the provision of development capacity are recognised.
3. Amend the definition of infrastructure so that it captures all required infrastructure and not a narrow subset.

Policy PD2

The matters listed in Policy PD2 sit more appropriately in supporting guidance than in a policy. This applies particularly to "consenting processes that are customer-focused and coordinated within the local authority." This matter is good practice but does not create additional development capacity. The policy is also unclear as to what is meant by 'customer-focused' in terms of identifying the customer. Is it the intention that the customer is the developer or the resource consent applicant, or is it referring to the ratepayers in the

relevant area more generally? Local authorities have regulatory functions and a quasi-judicial role in consent processes and this term implies some form of preferential treatment rather than the required fair and objective processes local authorities must implement.

If the intention is that the outcome sought is coordinated resource consents and infrastructure approvals (along the lines of Auckland Council's Housing Project Office) then the policy should explicitly be reworded to state this.

Recommendations

1. Amend Policy PD2 to acknowledge constraints to growth.
2. Remove the list of measures in PD2 and include them in supporting guidance.
3. Provide clarity as to what is meant by 'customer-focused' to remove uncertainty, or use a different term.
4. Amend PD2 point 2 to read: "Consenting processes that are efficient and are coordinated with infrastructure providers".

Policy PD3

The matters listed in Policy PD3 likewise are better as guidance. The reference to "customer-focused consenting processes" repeats policy PD2 and does not in itself create additional development capacity.

Recommendations

1. Remove the list of measures in PD3 and include them in supporting guidance.
2. Consider policies PD2 and PD3 and remove duplication. Consider whether two separate policies are in fact required.
3. Amend PD3 along the lines of PD2 with respect to the point re customer-focused processes.

Policy PD4

This policy requires a council to enable capacity in the locations that are of highest demand and that is feasible. NB "feasible" means the commercial viability of development. The policy thus recognises "feasibility" from the perspective of the developer. Councils have pointed out that this policy potentially provides a strong directive to open up new areas for housing that are not current priorities – based on demand. This policy does not recognise constraints on development, including physical constraints nor the constraints associated with infrastructure or its provision, and potentially being required to service multiple areas of new housing growth. The same point can be made in relation to business land and the conflict that exists in some centres between "big box retail" on the periphery of a city and policies to support a vibrant centre.

Policy PD4 requires local authorities to have particular regard to enabling capacity in locations that the Housing Assessment indicates are of highest demand. The location aspect is not reflected in PD1, PD2 or PD3. The Housing Assessment (PB1) considers demand for different types of dwellings, locations and price points. All of these matters should be considered rather than just location.

Recommendations

1. Rephrase the policy to acknowledge the constraints associated with enabling capacity.
2. Amend point 1 of PD4 to provide "for the types of dwellings, location, and price points identified of highest demand in the Housing Assessment required under policy B1".

Responsive planning Policies PD5 – PD9

Policies 5 to 9 apply to all local authorities that have part or all of a High Growth Urban Area within their jurisdiction.

Policy PD6

LGNZ supports the targets required in PD5 being incorporated into regional policy statements without using the RMA Schedule 1 process. LGNZ has consistently recommended the use of these provisions to expedite the planning process in relation to national policy instruments. Clearly the Housing Assessments and the targets would have to be set jointly with the local authorities having jurisdiction over a high growth area.

Policy PD7

Policy PD7 requires a “future land release and intensification strategy.” It is unclear what status this strategy has in terms of relevance to both planning decisions and decisions on resource consent applications – it is assumed it will sit alongside statutory RMA plans, the 30 year infrastructure plan and long term plans as opposed to having any separate formal recognition. If increased or more formal recognition is intended then this needs to be made clear in the NPS in terms of how the strategy is to be addressed by local authorities.

Policy PD7 should be amended to reflect that development capacity can be met by intensification, land release or a combination of both.

This policy points toward the benefits of a regional spatial plan. Some regions already have regional spatial plans but without adequate statutory weight between subordinate plans they have limited effect.

It is also unclear why all local authorities (both regional and district councils) are required to have strategies in place. This may result in conflict between district and regional council strategies and may be more appropriately addressed at only regional or district council level.

Recommendations

1. Amend Policy PD7 to be clear as to the effect and relevance of the strategy to decision making under the RMA.
2. Consider whether Policy PD7 should apply only to district councils, or regional councils, or both as currently worded.
3. Amend Policy PD7 to read “...future land release and/or intensification strategy.....”

Policy PD8

Policy PD8 requires that the land release and intensification strategy must identify the location, timing and sequencing of development capacity in the long term. This policy, as per PD7, should reflect that development capacity can be met by intensification, land release or a combination.

Recommendation

1. Amend Policy PD8 to read “...future land release and/or intensification strategy.....”

Other matters

Consistent terminology

A review is needed of the NPS wording to ensure consistency in the use of the terms 'proposed' and 'operative' in some places and just plans generally in others (which is defined to include operative and proposed regional plans, but only operative district plans). The provisions should be reviewed to ensure that the correct terminology is being used in each of the provisions.

Also needing review is the way in which the medium and high growth urban areas are defined and referred to throughout the NPS. The definition is technical and uncertain as to when the Statistics New Zealand information will be updated and or amended and the implications of this on those areas where there is a shift in their status in terms of containing one or more medium or high urban growth areas. There is also some inconsistency in how local authorities are defined in respect to those areas. For example the introduction to Policies PB1 to PB5 refers to 'all local authorities that have part, or all of either a Medium Growth Urban Area or High Growth Urban Area within their jurisdiction' whereas Policy PB1 itself refers to local authorities as becoming a Medium or High Growth Urban Area. We consider that the language used in the introduction is more consistent with how the terms are defined in the NPS.

Interpretation

It is unclear what is meant by 'productive economic activities' and 'social and economic exchange' which are terms used in the definition of business land and Policy PA1 respectively. Clarity around these terms would be useful.

Definition of 'urban area' is very unclear. It means an area with 'urban characteristics' – what are they – should examples be listed? Further, it refers to a 'moderate to high concentration of population' – is this relative to the surrounding area or should some specific density be specified.

Recommendations

1. Review the NPS to ensure terminology is consistent.
2. Include definitions and consider including in the guidance: 'productive economic activities', 'social exchange' and 'urban characteristics.'
3. Include an expanded definition of 'infrastructure' to reflect the scope of infrastructure required to support new development.