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NPS Urban Development Capacity
Ministry for the Environment
PO Box 106483
Auckland City 1143

npsurbandevelopment@mfe.govt.nz

NZCID Submission on the Proposed National Policy Statement: Urban Development[1]

The New Zealand Council for Infrastructure Development (NZCID) is the peak industry body for the infrastructure sector and promotes best practice in national infrastructure development through research, advocacy and public and private sector collaboration. NZCID members come from diverse sectors across New Zealand and include infrastructure service providers, investors and operators.

We welcome this opportunity to provide feedback on the Proposed National Policy Statement: Urban Development (the Statement).

Executive Summary

NZCID supports the Statement.

We consider the Statement will help to align central and local government objectives around development capacity and facilitate the delivery of more homes and business land.

The Statement will not, however, address the underlying causes of existing misalignment between central and local government with regard to urban development and thus, while providing some benefit, will leave unaddressed the primary issues which give rise to the need for the Statement.

In particular, the Statement will not address the incentives which have led to local authorities failing to provide adequate development capacity.

Strong central government guidance, such as that contained in the Statement will require councils to meet minimum thresholds but will not make councils willing partners in the delivery of development capacity and quality urban development.

As long as local authorities are required by statute to meet central government objectives, rather than motivated through financial and other positive reinforcement, we do not anticipate enduring solutions to New Zealand's urban development issues.

A comprehensive review of New Zealand's local government structures, how these are resourced and what their core duties are is a necessary precondition to successful urban development.

We encourage the Government to progress this review and, as a short term mitigation response, support the Statement as a means to improve the supply of residential and business land, subject to key concerns set out below.

[1] This submission represents the views of NZCID as a collective whole, and may not necessarily represent the views of individual member organisations.

We support the Statement

We support the Statement.

We have for many years highlighted the need for stronger alignment across central and local government on issues relating not only to infrastructure, but also urban planning, project funding and local governance.

In addition, we have closely monitored Productivity Commission research since 2011 and support the Commission's finding that planning is unresponsive to prices.

The Statement will help address both these issues, most notably by strengthening the requirement for local authorities to provide development capacity to support growth.

We wish to record our particular support for:

- the objectives of the Statement (OA1-3, OB, OC, OD1-2)
- efforts to increase competition in land and development markets (PA1)
- acknowledgement that urban development is a positive economic and social force and not a burden on society (PA3)
- the distinction between the needs of fast, medium and slower growth urban areas (PB1-5)
- increased monitoring (PB5)
- improved coordination (PC1, PC2, PC3)

We also strongly support the requirement for medium and fast growth local authorities to carry out housing and business land needs assessments every three years and agree that these assessments should encompass different dwelling types, locations and price points (PB1).

However, we recommend that Housing assessments are either conducted by independent parties, for example, a government agency or group of agencies, or peer reviewed. Councils stand to incur additional costs from ensuring an adequate supply of development capacity, which may place an incentive upon councils to underestimate needs.

We consider this risk needs to be accounted for via independent auditing or oversight of the assessment process.

Responsive planning

We support efforts to improve the responsiveness of planning.

However, we are not clear what the outcomes of polices PD1-6 will, or are intended to, be. We have several concerns:

- what "likely" infrastructure and, therefore, development capacity is
- whether targets (PD5) relate to development capacity or dwellings
- whether requirements will result in the competitive supply of land

It is clearly the Ministry's expectation that councils in high and medium growth areas provide sufficient development capacity to meet short, medium and long term development demand. We support this objective.

It is also clear that the Ministry desires to enable “efficient and effective” urban areas. We support this objective.

However, we are not convinced that policies set out in the Statement will achieve both these objectives.

In order for a growing urban area to function “efficiently”, land for development must be accessible. Constraints on access to developable land incentivise those with development rights to withhold land from development, generating higher “inefficient” prices (Productivity Commission).

Higher, increasing land prices not only incentivise land banking, they also lead to larger and more expensive dwellings and other effects which impede the supply of housing at different price points.

Carefully staged release of zoned and infrastructure-ready land does not permit a competitive supply of developable land. Land prices will inflate in anticipation of zoning and infrastructure provision. This dynamic has been observed empirically in Auckland.[2]

The Statement must therefore require a significantly greater volume of development capacity to be available than is strictly required by a growth area.

In this regard, we support efforts in the Statement to require a proportion of development above and beyond short, medium and long term requirements.

Nevertheless, we are concerned requirements for 15-20 per cent beyond identified demand will not be sufficient to ensure efficient land markets can operate (PD5).

Auckland Council, for example, has by its account development capacity for 94,000 dwellings in consented subdivisions or Special Housing Areas.[3] This equates to some 7 years of supply, yet the Auckland residential property market continues to inflate and a supply of homes in the “affordable” range of 2.5 to 3.5 times median household income ($200,000-$300,000) is effectively non-existent.

Section prices in Auckland, by way of comparison, are now approaching $1000 per m2 on the periphery where land is cheapest, or around $500,000 for a 500m2 section, zoned with infrastructure.

Auckland is clearly not a land market which is functioning efficiently.

Yet, according to the draft provisions of the Statement, Auckland may already be close to providing adequate development capacity. In fact, should migration continue to slow, Auckland may soon find it is consistent with the requirements set out in the Statement.

No party, inside Auckland or out, seriously considers that Auckland’s development capacity is close to sufficient.

A particular concern is that the Statement makes weak or no provision for pent up demand which may have accrued to date.

The agreed number of homes Auckland requires per annum is 13,000. A ten-year housing assessment would, by our understanding, therefore identify a need for 130,000 homes, but not take into consideration the backlog of 30,000-70,000 homes required today which result from a decade or more of undersupply in relation to population growth.

We conclude that changes are required to the Statement to ensure efficient and effective development of urban areas which meet residential and business demand.

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[2] Arthur Grimes and Yun Liang, Spatial Determinants of Land Prices in Auckland: Does the Metropolitan Urban Limit Have an Effect? August 2007.

[3] Stephen Town, presentation to the Employers and Manufacturers Association, 8 June 2016.

Achieving an efficient land market

NZCID desires to see land markets functioning efficiently. Our expectation following implementation of the NPS is that land prices do not inflate dramatically in anticipation of zoning, but only with the delivery of infrastructure, which due to its cost should be the primary determinant of land value.

Zoning is for all intents and purposes “free”. With the exception of largely internalised planning processes, zoning land does not cost money, either to land owners or public agencies.

Zoning or rezoning which leads to land value appreciation is often untaxed and does little more than deliver an immediate and sustained transfer of wealth from those wishing to buy housing to an established land owner.

Infrastructure, by comparison, is expensive. Delivery of water and transport, as well as energy, telecommunications and other infrastructure, costs users, governments and businesses vast amounts of money.

The objective of the Statement should be to reduce close to zero the benefit of land – greenfield or brownfield – being zoned for residential or business land development or rezoned for higher value uses.

That is, enough land should be zoned for development so that scarcity no longer places upward price pressure on land which is zoned but not infrastructure enabled.

In doing so, authorities will shift the value improvement of development capacity from low cost zoning and planning decisions to high cost infrastructure decisions, enabling the cost of infrastructure to be “impounded” in the value of land.

That is, the objective of the Statement and key to achieving efficient land markets is to decouple land value improvement and zoning and instead to tie land value appreciation to the cost and risk associated with providing infrastructure.

Doing so will not only materially lower the cost of delivering housing, it will realign the incentives which currently drive land banking and other behaviour which constrain the supply of housing.

Implemented effectively, it will also alleviate cost pressures on councils by more closely aligning the costs of infrastructure provision to those who are willing to pay, rather than those who feel it is their right due to zoning decisions.

Given that in Auckland, for example, there is currently development capacity, including infrastructure “existing or likely to exist”, for 7 years supply, we do not consider the provisions set out in the Statement to be sufficient to enable a competitive supply of land.

We expect improvement in the competitive supply of land via requirements for development capacity over the short, medium and long term, but we also anticipate land values will remain higher than required to deliver affordable housing.

That is, we do not expect land markets to operate efficiently.

Land owners benefitting from the inclusion of their property in development capacity forecasts even over 30 years will continue to experience a financial windfall, while still externalising the real cost of development capacity which is in the provision of infrastructure.

Implementing an efficient land supply market

In order to shift the value improvement of land away from low cost zoning and towards high cost infrastructure, a change of direction is required.

The Statement must facilitate a refocus across growth councils. Infrastructure priorities need to move away from areas which appear on existing plans to be attractive or feasible, but where development may not be imminent, and tied to developers who are “ready to go”.

The Statement must require councils to support “out of sequence” development.

Where developers are ready and willing to deliver residential or business land, and pay for infrastructure, councils and their infrastructure agencies should remain flexible in their approach to growth plans to support development – even where those areas are outside zoned growth areas.

If major developments of, for example, 1000 homes and above, are ready to proceed but lack zoning and infrastructure, the Statement should require local authorities to provide this infrastructure and zoning within a time period, regardless of where the proposed development is located.

The single moderating factor should be whether the developer is prepared to cover the costs of that development, not whether the development features in existing plans.

Such an approach would increase the speed and supply of housing and other development and would help to reduce the impact of zoning on house prices.

It also recognises that development markets are complex, comprising a mix of commercial property investors and developers, as well as lifestyle oriented individuals with no intention to develop.

Preventing growth outside defined growth areas not only inflates land prices, reducing the efficiency of land markets, it also reduces the scope for development innovation, vision and opportunity.

Developers should not be encouraged to develop in areas which are inaccessible or disconnected from existing populations and services, but neither should they be prevented from doing so where they see an opportunity.

It is not in the interests of any party for a developer with a vision and resources for a new waterside development on greenfield land providing housing and employment for thousands to be constrained solely by an extant, potentially out of date, plan.

Neither is it in anyone’s interests for a developer with a vision and resources for a new brownfield redevelopment comprising residential and commercial high rise on underutilised industrial land to be prevented by regulatory red tape.

The priority under the NPS should be to enable any development, regardless of zoning, where developers are prepared to cover the “fair” costs of that development.

Funding infrastructure for competitive land and development supply

In practice, identifying the fair costs of development is challenging. Should, for example, out of sequence developers pay the full costs of new trunk infrastructure if that infrastructure may be used in the future by other developments? In a city like Auckland, does trunk transport infrastructure include just arterial roads or motorways and public transport as well? When should developers pay and how?

New Zealand's existing system for funding infrastructure and growth is not conducive to supporting a competitive supply of land or out of sequence development.

The incentive for infrastructure providers, particularly local authorities, is to minimise costs by carefully staging growth to align with infrastructure needs. This approach undermines competition in land supply and is responsible for driving up land prices and incentivising land banking.

New means of funding trunk infrastructure for growth are required.

We note that this issue falls outside of the purview of the Statement and the wider resource management system, but consider it is important given the impact land supply via the RMA will have on council and broader infrastructure costs.

In order to facilitate the competitive supply of land without increasing infrastructure costs to councils beyond reasonable affordability thresholds, new approaches to funding trunk infrastructure are required.

The existing development contributions approach effectively prohibits a developer from delivering homes and jobs if major water and transport services are not in place. The cost of trunk infrastructure is simply too high to be absorbed by a commercial entity operating at a sub-regional scale (which is why these services are delivered by public agencies in the first place).

Furthermore, because trunk infrastructure is enabling and not responsive, it must be delivered before or as development begins, meaning costs are generally incurred at the beginning of a development and not as properties are brought to market.

The Government should consider ways of reallocating costs so that out of sequence developers meeting certain scale thresholds, for example 1000 homes, can enter long term agreements with infrastructure providers for repayment either upon individual property sale or via a targeted rate on the development payable to affected infrastructure providers.

In some jurisdictions overseas, developers are able to access private capital markets via bond issuance to fund major infrastructure and then oversee a land tax, rate or levy on the development which is used to repay debt.

In other cases, a pre-development property tax take is ring fenced by an affected council or councils and used to fund normal council activities, while rates above and beyond this amount accruing from a development is used to repay debt levied to fund infrastructure which enabled the development to proceed in the first instance (tax increment financing).

Both these options would require a significant change in approach by local authorities and would test the boundaries of legality.

We are not sure whether they could be implemented under existing legislation, though note that provisions for targeted rates under current statute are broad.

We encourage the Government to investigate infrastructure funding options which transfer the burden of cost for funding trunk infrastructure from up-front development charges to longer term debt repayment.

An added opportunity, particularly in brownfield areas, is value capture. Value capture describes any one of a number of approaches used by public authorities to impound the land value created when new infrastructure or zoning is provided.

Value capture may take the form of a higher land tax reflecting the new value of underlying land, or a capital gains tax reflecting the higher capital value of impacted properties.

PO Box 7244 Wellesley Street, Auckland 1141 P: +64 9 358 7353 E: info@nzcid.org.nz www.nzcid.org.nz

Value capture is not well supported by existing statute. Although added land value does to some extent lead to higher rates, the difference is minimal under current rating policy which averages rates across areas.

Targeted rate legislation does, however, appear flexible enough to capture some of this value and tie it back to infrastructure needs and costs.

Capital gains taxes are not heavily enforced in New Zealand and would result in some public and political opposition. They also are difficult to enforce in the immediate term, usually being payable on point of sale.

NZCID supports a shift to a longer term infrastructure financing solution whereby either a developer, council or the Government raises debt to fund major infrastructure provision which is then paid off via a 20 to 30 year land tax additional to rates.

We also consider the Government should investigate a major public private partnership to tie major development with major infrastructure provision to take advantage of lower land values in presently out of sequence development areas.

Under such a model, we would expect the Government working with one or more councils to aggregate land and contract a consortium of infrastructure contractors and developers to deliver infrastructure and development at scale over the long term.

Debt to fund the development and infrastructure would be financed privately and the risk of development retained by the private partner. Private sector debt would be repaid via a targeted rate and property sales.

The attractiveness of this proposal to the private sector would be a long term development opportunity with private property resale opportunity.

The public partner or partners would facilitate development at scale, including potentially thousands of new homes per annum over an extended period, leveraging economies of scale.

The public would also attract a developer capable of building through housing peaks and booms and public objectives around density, affordability and sustainability could be folded into the contract to achieve the type of urban development objectives aspired to by public authorities.

Importantly, issues around infrastructure cost sharing in an out of sequence development could be worked through and understood at a much greater level of detail than is known today.

Limits to development

NZCID is generally supportive of the narrow focus to meeting development needs employed through the Statement. We note, for example, that the Ministry has not included significant requirements for urban design, affordable housing, environmental mitigation or other factors which tend to slow the supply of housing.

We acknowledge the urgency of getting homes, in particular, built and to this extent accept the Ministry's exclusive focus on supply.

However, we are very concerned at the impact poorly located supply could have on infrastructure affordability, economic productivity and social cohesion, particularly in Auckland.

In our attached report *Transport Solutions for a Growing City*, we investigate the incongruous results of much more investment in Auckland's transport system at the same time as transport outcomes, particularly congestion, decline markedly.

We conclude that poorly integrated transport and land use is driving excessive dependency upon private vehicles without concomitant investment in road capacity.

Should a final NPSUDC result in further development in locations which cannot be affordably serviced by transport infrastructure, in particular, Auckland's long term competitiveness will be severely undermined.

In practice, therefore, we do not consider land values to be the sole determinant of development feasibility.

High land values only provide an indication of where the market wants to develop given existing levels of service and access to amenity.

They do not reflect the cost of providing new services should development proceed.

Allowing development to proceed in areas which are commercially but not "infrastructurally" feasible reduces the access of existing residents to services.

Apart from being the major driver of 'NIMBYism" and other objections to development, development misaligned to services necessitates future retrofitting in brownfield locations, the cost of which is extremely high.

For example, the AMETI project in Auckland, comprising several minor local road upgrades and a 7km busway is comparable in cost to the brand new 4 lane 20km Transmission Gully motorway project in Wellington, which traverses fault lines and makes provision for grade separated interchange.

Development contributions are not sufficient to cover even a small proportion of these added costs and the result is the regionalisation of costs from new development.

The Statement must take care that in an effort to deliver more housing in the short term it does not transfer costs to infrastructure providers in the long term.

We support development restrictions in areas until such time as infrastructure services can be committed which are sufficient to meet new demand.

Changes to the Statement

We encourage the Ministry to amend the Statement to allow for out of sequence development as a means to ensuring a competitive supply of land for development.

Local authorities should not, via the RMA, be in a position to prohibit development for a reason limited to that development not occurring in a location consistent with existing plans.

Local authorities are not accountable for the wider society impacts of land constraint and are (appropriately) heavily influenced by priorities under the Local Government Act 2002 (among other statute).

The Government should look closely at restricting local authorities' abilities to prohibit development other than when that development occurs on sensitive land or when developers cannot or are not willing to cover the fair costs of infrastructure provision.

We have difficulty understanding the definition of 'development capacity' in the Statement, particularly the meaning of infrastructure which is "likely" to exist, but consider that provision for out of sequence development supported by targeted rate mechanisms will reduce the need for prescriptive requirements on councils for short, medium and long term development capacity provision.

With or without provisions requiring out of sequence development, we consider the final NPSUDC should strengthen requirements for "likely" infrastructure.

In our view, all land expected to be developed over the medium term should be zoned and have infrastructure in place, or "committed" through long term plans. That is, expected infrastructure needs over any ten-year period should be funded.

The Local Government Act 2002, Land Transport Management Act 2005 and Government Policy Statement on Transport will all need to be revised to reprioritise infrastructure spending to ensure projects providing for growth are prioritised.

All land anticipated for development within 30 years should have operative designations in place for all major infrastructure, including water, transport, telecommunications, energy and schools.

We support at a conceptual level attempts in the Statement to require councils to improve “customer focus” (PD2, PD3), but are unclear what this means. We recommend the Ministry clarify the meaning in the Statement of “customer focus” and what impact improved customer focus is expected to have on the activities of councils.

We also seek clarity as to whether section PD5 requires targets for dwellings or development capacity. PD5 itself states that councils must set minimum targets for development capacity, however page 29 of the discussion document suggests PD5 and PD6 set minimum targets for housing.

Minimum targets for dwellings would operate as a very effective proxy for the success of local authority urban development policy, but this requirement would create challenges for councils which can only directly influence development capacity.

The Statement will be useful, but will not tackle underlying issues

With these changes in place, we anticipate a final NPSUDC will have a major impact on the way in which land and development markets in New Zealand function.

We anticipate more housing and, with out of sequence development sufficiently supported, more affordable housing.

However, while we believe a final NPSUDC with the changes outlined above will go some way to addressing major identified problems, and will help to realign the objectives of councils and others with the Government, it cannot and will not address the reasons why housing in particular has become such an issue across New Zealand.

Why is the Statement necessary? Providing housing for people should not be an activity which requires Government direction. Something is fundamentally wrong with New Zealand’s resource management, planning and local governance system if the Government must direct responsible agencies to perform a function as basic as providing land for housing.

The Government must investigate why councils have increasingly become less flexible in their response to urban development and pursue measures which address these underlying causes.

Factors which NZCID highlight with specific relevance to housing, include:

- A democratic deficit – the Productivity Commission (2015) highlighted the potential for opposition from existing land owners to increasing housing supply due to concerns about downward pressure on house prices. We agree that existing ratepayers are contributing to supply issues but consider the Commission’s view requires nuancing. Existing ratepayers do not value growth infrastructure and future rate payers who would benefit from this infrastructure cannot vote. Consequently, councils are under extreme pressure from existing ratepayers to increase levels of service, but less so provide for growth. In addition, growth tends to impact other residents from a land use and resource management perspective, increasing objections to development.

- Weak funding tools –development levies and rates are not efficient means of providing for growth infrastructure. Rates revenue from new housing is not additional and is absorbed into the overall rates take for an area, reducing the relationship between investment and return on that investment. Development levies increase the risk of development by shifting costs to the start of

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development processes rather than averaging costs over the lifecycle of the assets. Developers consequently undertake smaller developments and require higher returns on investment.

- Separation of costs and benefits from growth – councils are ultimately funded by land tax, but the benefits of growth are felt throughout the economy. Higher income, corporate and sales taxes are the product of good growth management, as well as rates. However, rates must cover very high initial investment costs. Current local and central government funding responsibilities incentivise councils to oppose growth.

More broadly, we have completed a major review of New Zealand's planning statute, and this paper *Integrated Governance, Planning and Delivery* is attached to this submission.

In our report, we found planning it to be poorly integrated with governance and funding, not just across housing, but in the funding and management of local government assets, the prioritisation of transport investment, transport's relationship to development, weak implementation of plans, lack of scale and capability to deliver core services, and other issues.

In short, New Zealand's planning system is broken and housing is but one of many areas where the disconnect between planning, funding and delivery of central and local services is leading to suboptimal outcomes.

The final NPSUDC may succeed in requiring growth councils to realign to meet central government expectations, but it will not address the fundamental drivers of housing issues, which are located in separate legislation, notably the Local Government Act 2002 and the Land Transport Management Act 2005.

It will require councils to work in alignment with the Government but will not require the Government to work in a way which enables councils to plan for the long term, incorporating critical government activities including health, education, electricity transmission, highways development, rail investment and environmental standards.

Councils will remain subject to changing government priorities and will therefore seek to reduce their exposure to these changes as and when they occur with the small number of resources councils have at their disposal.

We anticipate making such observations again and again in the future as issues continue to plague infrastructure, housing, planning and local government – just as we have in the recent past via submissions to the Auckland Transport Alignment Project, the Parliamentary Commissioner for the Environment, the Productivity Commission, the Ministry of Transport, the Ministry for the Environment, the Local Government Commission, and others.

Each of these submissions and calls for reform are linked as fundamental level to New Zealand's flawed resource management, local government, planning and funding system and we look forward to reiterating them to you again in the future.