



NPS Urban Development Capacity
Ministry for the Environment
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Submissions and Publications PL-1 Reference
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**MATTER: NPS URBAN DEVELOPMENT CAPACITY; PARK LEGAL LIMITED
SUBMISSION**

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Dear Ministry for the Environment (**MfE**),

Park Legal Limited (**PL**) makes the following points in this submission on the Proposed National Policy Statement on Urban Development Capacity (**NPS-UDC**). PL applauds MfE efforts to ensure that councils provide enough development capacity to meet demand and there are many aspects of MfE's proposal that PL firmly endorses. These include requiring regional councils to set minimum targets for supply of residential development capacity and requiring local authorities to consult with stakeholders in carrying out housing assessments.

However, PL has eight major areas of concern with regard to the NPS-UDC. PL is of the opinion that:

- 1 – *requiring local authorities to work with infrastructure providers without imposing similar duties on infrastructure providers may not be efficient;*
- 2 – *the definition of infrastructure should be expanded to ensure that all essential services are made available in new development communities;*
- 3 – *there may be value in monitoring the cost of information requirements imposed on those applying for resource consents;*
- 4 – *there may be benefits to collecting data on building and resource consents at a national level through the New Zealand Geospatial Strategy;*
- 5 – *there may be a benefit to imposing a different margin on projected demand for brownfield and greenfield development capacity;*
- 6 – *imposing too great an additional margin on projected demand may in certain circumstances lead to a dangerous surplus of supply;*
- 7 – *better decision-making under the Resource Management Act 1991 (**RMA**) may result if the NPS-UDC better recognised the values of sustainability, amenity and community wellbeing;*
- 8 – *there may be problems effectively implementing regional minimum housing targets effectively across development markets that cross regional catchments.*

General Comments

Information Requirements and the Geospatial Strategy pp30-33

PL is concerned that information provision requirements are one of the major costs to developers in subdividing land for housing. This a particular issue where



developers or builders are small or medium enterprises with small financial resources. This cost can often be a disincentive to application for resource consents. There is therefore a significant risk that if territorial authorities are required to collect new information the cost of that responsibility may to some degree come to increase the cost to developers of increasing housing supply.

PL would therefore like to suggest that central government take a leading role in collecting much of the information and conducting both the housing assessments and the business land assessments. PL suggests that these assessments could be conducted through the LINZ New Zealand Geospatial Strategy and the data could thus be available to the public and professionals. Centralised collection of data might also act to reduce duplication and unhelpful multiplication of assessment methodologies.

If such assessments are unable to be conducted by central government agencies it would be beneficial if central government agencies could monitor assessments conducted by territorial authorities. Such monitoring would be for the purpose of ensuring that the costs of the assessments are not passed on to developers.

Infrastructure Obligations PC 1-3

PL greatly values MfE's attempts to ensure that territorial authorities and infrastructure providers co-operate to ensure new developments are provided with sufficient infrastructure. However, PL is concerned that there are a number of possible risks to requiring this co-operation.

Firstly, local authorities will be required to work together with infrastructure providers. Where infrastructure providers are associated entities of local authorities this should not prove a problem. However, a risk arises where infrastructure providers (bus operators for example) are not associated to local authorities. That risk arises because there is no obligation that infrastructure providers work together with local authorities. While there is a caveat that would protect against this (the words "as far as possible") in PC3, PC2 does not contain any caveat to protect against infrastructure provider unwillingness. This may lead to a situation where infrastructure providers are able to put undue pressure on local authorities. PL would prefer for legislation to be introduced to regulate infrastructure providers and require them to work together with local authorities.

Secondly, PL considers that while water and transportation are essential services they are not the only services that should be provided to new communities. PL suggests that the same obligations be extended to working with the providers of electricity, gas, health and education services as well as of transport and water.

Minimum Targets and Margins PD5-6, pp30-35

PL encourages the setting of minimum targets for the supply of sufficient development capacity. However, PL also suggests that particular caution should be paid to ensure that there is not an oversupply of housing. Housing oversupply could lead to instability in the housing market that could have negative effects



on national financial stability. The additional margins required should not be set too high so that oversupply is avoided. PL also considers that there are different markets for greenfield and brownfield development. PL would suggest that this be investigated further and that separate targets be provided for such developments.

RMA Principles and the NPS-UDC p28

The NPS-UDC document asks whether the policy would result in better decision-making under the RMA. PL is concerned that there are a number of important aspects of the RMA that are not immediately evident in the policy statement and that put at risk its justiciability. In particular the NPS-UDC is quite sparse in its reference to sustainability and to the importance of enhancing amenity. The NPS-UDC does not also seem to take into account the principles of the Treaty of Waitangi to an adequate extent. Amendments are proposed below to remedy these issues.

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Relationships between Councils pp34-35

PL is aware that markets for residential land can often effectively extend over regional council boundaries. This is particularly the case over the Auckland and Waikato Regional Council catchments. PL considers that the NPS-UDC should recognise the need for territorial authorities to co-operate as far as possible over regional council boundaries. The NPS-UDC should also encourage regional councils with contiguous development areas to have particular regard to the policy statements of their neighbouring regional councils when producing policy statements on the NPS-UDC.

Particular Comments

Definition: Infrastructure

PL recognises the importance of transport and water network infrastructure to ensuring stable supply of land. PL, however, considers that the social and cultural well-being of people and communities depend not only on transport and water infrastructure but also on the provision of other essential services. PL considers that electricity, telecommunications, internet, health services, primary and secondary educational facilities are also essential to the social and cultural well-being of people and communities. PL requests the following amendment to the definition of infrastructure:

- A. ***“Infrastructure means network infrastructure for water supply, wastewater, stormwater, transport, passenger transport services, electricity, telecommunications, internet, public health services, primary education and secondary education services.”***

OD1

PL applauds MfE’s attempt to ensure urban development is provided for in planning decisions. However, PL is concerned that the important RMA ethic of sustainable management is not sufficiently provided for in the wording of this objective. While the NPS-UDC is likely to be read in light of the RMA, PL considers

that

it is important to reinforce for both economic and environmental reasons that development should be sustainable at all times. Accordingly, PL recommends the following amendment:

- B. *“OD1: To ensure that planning decisions enable sustainable urban development in the short, medium and long-terms.”*

PA3

PL recognises the importance of providing for the positive effects of development. PL also applauds MfE’s recognition that there will be a need to minimise the adverse effects of development. PL is concerned that the adverse effects of development on quality of life should be made particularly clear. PL also considers that adverse effects on quality of life can have a disproportionate effect on community social, economic and cultural well-being. PL suggests the following amendment:

- C. *“PA3: When considering the effects of urban development, decision-makers must:*
- ...
 - *Provide sufficient development capacity, whilst maximising the positive effects of development, and minimising the adverse effects of development, particularly on quality of life.*
 - ...”

PC2

PL recognises that it is important to ensure that infrastructure providers work together with local authorities to ensure data and projections are agreed upon. PL is concerned, however, that there may be situations where infrastructure providers become either unresponsive or uncooperative. In such circumstances it is important that the provision of assessments not be held up by a requirement to work together with infrastructure providers. PL therefore suggests the following amendment:

- D. *“PC2: The relevant local authorities and infrastructure providers will work together to, as far as possible, agree on data and projections used in the development of the assessments required under policy PB1.”*

PD5

PL considers it essential that minimum targets be set for supply of residential development capacity and applauds MfE’s attempts to do so. However, PL is concerned that there is a risk of oversupply of capacity leading to dramatic changes in market value. PL also suggests that a distinction should be made between brownfield and greenfield residential capacity. Finally, PL also is concerned that regional councils with contiguous urban areas should be encouraged to have regard to the policy statements of neighbouring regional councils. In keeping with the above PL suggests the following amendments:

- E *“PD5: Regional councils must set minimum targets for the supply of sufficient brownfield and greenfield residential development capacity that must be achieved, in accordance with its Housing Assessment and*

having regard for the relevant regional policy statements of regional



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councils with contiguous secondary or main urban areas, and incorporate these into the relevant regional policy statement.

These minimum targets must specify:

- *The total number of dwellings; and*
- *Different types of dwellings.*

To take account of the likelihood that not all capacity will be developed, it must require an additional margin of at least:

- *15% over and above projected short and medium-term demand; and*
- *10% over and above projected long-term demand.*

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PD9

PL affirms MfE's statement that it is important for local authorities to take into account the view of stakeholders in developing land release and intensification strategies. PL particularly appreciates the need for well developed strategies. However, PL considers that it is important for local authorities to take into account a wider range of views. PL particularly considers that local authorities should be specifically required to take into account the views of environmental groups, and community and ethnic community groups including iwi. Accordingly PL suggests that the following amendment be made:

E. *"PD9: In developing this strategy, local authorities must:*

- *...*
- *Take into account the views of infrastructure providers, land owners, the property development sector, environmental groups, community and ethnic community groups including iwi, and any other stakeholders as they see fit; and*
- *..."*

Please contact us if you have any questions or queries regarding this submission

Yours faithfully

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