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NPS Urban Development Capacity
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by email

SUBMISSION ON THE PROPOSED NATIONAL POLICY STATEMENT ON URBAN DEVELOPMENT CAPACITY

Introduction

- 1 This submission is made by the Retirement Villages Association of New Zealand Incorporated (*RVA*) and the majority of all registered retirement village operators throughout the country.¹
- 2 In December 2015, the Ministry for the Environment and the Ministry of Business, Innovation and Employment called for comments to inform the development of a National Policy Statement on Urban Development. The *RVA* provided an overview of our industry's planning issues and feedback on the questions posed by the Ministries on 4 February 2016. This submission builds on those comments.
- 3 The *RVA* generally supports the proposed National Policy Statement on Urban Development Capacity (*NPSUDC*). It supports the intention to connect planning decisions with economics, require more responsive and evidence based planning and rebalance national and local interests. However, the *NPSUDC* must also more clearly address the challenge of accommodating New Zealand's rapidly ageing population, which is a significant resource management and health and welfare issue. This submission also identifies some practical and drafting issues with the *NPSUDC*.
- 4 This submission comments on particular provisions.² The *RVA* has also provided cross-references to the comments that address the consultation questions in the attached **Appendix**.

¹ The *RVA* is a voluntary industry organisation that represents the interests of the owners, developers and managers of registered retirement villages throughout New Zealand. The Retirement Villages Act 2003 regulates the operational obligations and requirements of registered Retirement Villages in New Zealand.

² The relief requested is recorded by underlining additions and striking out deletions.

Accommodating our ageing population

- 5 New Zealand's population is ageing at a rapid rate.³ There are significant challenges in planning for this growth. Retirement villages play a significant part in housing and caring for elderly people in New Zealand. Demand is already outstripping supply.
- 6 Enabling support for housing aged people will not be the same as for other housing developments. The lifestyles and care needs of retired people are very different to younger people. The operational and functional requirements of retirement villages are also quite different to typical housing developments. These facts have created many unique challenges for the retirement village sector.
- 7 RMA processes and traditional planning tools have catered poorly for retirement villages proposals. A significant constraint to building more retirement villages is finding appropriate serviced sites within existing urban areas able to accommodate modern retirement village formats (given the desire of elderly people to 'age in place'). Zoning and rules often do not cater for this typology, given they are based on historical house styles and densities. Insufficient infrastructure capacity can further constrain development options.
- 8 Further details regarding the challenges of accommodating New Zealand's ageing population are provided in the February 2016 feedback.

Submission on the proposed NPSUDC

Overview

- 9 There is considerable potential for the NPSUDC to help address the challenges of accommodating our ageing population. The NPSUDC could also assist with promoting more consistency between different councils regarding urban growth planning. Another measure which the RVA considers will also assist is the proposed National Planning Template.
- 10 The proposed NPSUDC already acknowledges the need to assess the needs of different groups in the population for different types of dwellings. The consultation document also acknowledges that urban areas are experiencing changing demographics, including an ageing population.⁴
- 11 However, the NPSUDC needs to go significantly further to properly acknowledge this fact. It also needs to be much more directive, so that councils are very clear about their obligations under it.
- 12 The NPSUDC must actively enable housing diversity. A key issue that has stalled many retirement village proposals is councils treating them in the same manner as typical residential developments, despite their different operational and functional requirements. Without appropriate guidance in the NPSUDC, the RVA is very concerned that this issue will be perpetuated.

³ The number of people in the 65+ age group is projected to almost double from around 550,000 in 2009 to around 1,000,000 in the late 2020s.

⁴ Page 28, section 2.

Preamble

- 13 The preamble of a national policy statement provides background information that may assist the interpretation of the objectives and policies contained in the statement. The RVA considers that the NPSUDC preamble should expressly identify the changing demographics of New Zealand's urban areas, including the growing ageing population, to make this particular issue very clear.
- 14 The RVA seeks the inclusion of the following statement in the preamble as a new paragraph 3:

The demographics of our urban areas are changing. Throughout New Zealand, the population is ageing at a significant rate, family structure is changing and there is increased cultural diversity. These shifting demographics are changing the housing needs of people and communities requiring new approaches to planning and growth management.

There is an increasingly critical need for a range of appropriate retirement accommodation and care facilities to be provided in urban areas. Retirement accommodation and care facilities have different operational and functional requirements from other residential development, and therefore require a different planning approach.

Definitions

Business land

- 15 Business land is defined to mean:

land that is zoned for productive economic activities in urban areas, including but not limited to the following:

- ...

but does not include residential dwellings that are also used for a productive economic activity such as home occupations.

- 16 The RVA considers the definition is ambiguous and could cause interpretation issues. It could be read as meaning that residential activities must be excluded from business zoned land. Residential activities can and often do occur in areas that are zoned "business" (for example most of the Auckland Unitary Plan business zones are expected to contain opportunities for residential use). It is necessary that business zones are not strictly limited to "productive economic activities". Retirement villages in particular often rely on business zoned land for new sites, due to the scarcity of good sites in residentially zoned areas.
- 17 Further, Housing Assessments and Business Assessments will need to take into account that residential and business activities can occur in a range of zones, to ensure adequate development capacity is provided for. For example, Business Assessments will need to factor in the possibility of some areas of business zoned land being taken up by residential and other uses.
- 18 To address those issues, the RVA requests that the definition of "business land" be amended as follows:

Business land means land that is ~~zoned~~ available to be used for productive economic activities in urban areas, including but not limited to the following:

- ...

recognising that land that is zoned for business purposes may also be available for a range of other uses. For the purposes of this definition, land that is available to be used for productive economic activities ~~but~~ does not include residential dwellings that are also used for a productive economic activity such as home occupations.

Dwelling

19 The NPSUDC uses the word “dwelling” throughout the document, essentially as a unit of residential demand. The RVA is concerned that “dwelling” could be interpreted to exclude retirement villages. It could also confuse the interpretation of district and regional plans and development contribution policies which also use this term.

20 “Dwelling” is normally used in district and regional plans to refer to ‘standard’ residential accommodation. The NPSUDC consultation document also infers “dwelling” is referring to this standard type of accommodation, where it records:⁵

The Housing Assessment must estimate the demand for housing in the short, medium and long term. It includes demand for different types of dwellings (such as terraced houses, apartments or standalone houses)...[emphasis added]

21 “Dwelling” can also be used in Local Government Act development contribution policies to refer to specific housing typologies.

22 These factors have a range of implications for retirement village activities. For example:

22.1 There will potentially be gaps in a NPSUDC Housing Assessment where retirement village demand is not factored in, as retirement villages are not perceived by councils to be “dwellings”. To put the point in context, in the Auckland Unitary Plan process, Auckland Council, the RVA and retirement village operators have agreed that the definition of “retirement village” should expressly say that a retirement village unit “shall not compromise a dwelling”. This change was agreed to ensure that standard residential controls do not apply to those units.⁶ Other parts of the plan directly acknowledge that retirement villages are a residential use, albeit not a “dwelling”.

22.2 It will perpetuate the retirement village industry’s problems with convincing councils to treat retirement village formats differently to standard dwelling typologies.

22.3 It may suggest that retirement villages should be treated the same as “dwellings” when assessing development contributions, when the demand

⁵ Page 29.

⁶ Evidence of John Kyle, Topics 059-063 Residential zones, paragraph 73.

characteristics of retirement villages are often considerably different to standard dwellings.

- 23 Retirement villages are not the only housing group potentially affected by this issue. There are a range of other necessary housing types which may not be viewed as “dwellings” such as student accommodation, home occupations, and elderly persons’ housing.
- 24 Accordingly, the RVA seeks the following changes to the NPSUDC:
- 24.1 Replace “dwelling” with “accommodation” or “units of residential accommodation” throughout the document.
- 24.2 Include an inclusive definition of “residential accommodation” which widely captures the full range of residential activities, with express reference to retirement villages.

Infrastructure

- 25 The NPSUDC defines “infrastructure” to mean:

Network infrastructure for water supply, wastewater, stormwater, transport, and passenger transport services.

- 26 The RVA considers that the definition is overly narrow. It is limited to linear infrastructure that is typically provided by councils. It does not include other linear infrastructure that is essential to residential development and is typically provided by private entities (such as electricity, phone and internet). The RVA acknowledges that the NPSUDC cannot coerce private entities that provide infrastructure. However, the provision of adequate infrastructure is a significant issue to enabling development. A number of retirement village proposals have been held up by a lack of infrastructure.
- 27 Accordingly, the RVA requests a much broader definition (and related changes to the policies (see below)) as follows:

~~Has the meaning in section 2 of the RMA. Network infrastructure for water supply, wastewater, stormwater, transport, and passenger transport services.~~

Part A: Objectives and policies relating to outcomes for decision-making *Objectives*

- 28 The RVA generally supports Objectives A1 – A3. However, it considers Objective A3 is too generally worded, and could benefit from further refinement. The intention of the objective appears to be to ensure urban areas respond to changes in demand. The RVA requests that the objective is amended as follows:

~~To enable ongoing development and change in urban areas~~ to develop and change in response to shifting demographics and changing demands.

Policies

- 29 The RVA generally supports Policies A1 to A3, however they are too broadly worded and open to interpretation. We consider these policies need to provide clearer directions to local authorities. For example, the phrases "*potential for social and economic exchange within the urban area*" and "*competitive operation of land and development markets*" should be defined or explained further.
- 30 The policies are also repetitive and would benefit from consolidation (for example Policy A1 bullet point 1 and Policy A3 bullet point 1, Policy A2 and Policy A3 bullet point 2).
- 31 As recognised by Objective A3, urban areas will need to develop and change in response to the ageing population. Different accommodation types will be necessary to respond to the different lifestyle and care needs of elderly people. The RVA considers the NPSUDC does not adequately address this outcome.
- 32 It is also important that clearer policy direction is included in Part A to direct outcomes in districts where the overall population is not growing substantially (ie, they are not medium or high-growth areas), but where the ageing proportion of that population is growing.
- 33 The RVA requests that Policy A1 is amended to add the following bullet point:
- Enable a wide range of accommodation types, sizes, and densities in neighbourhoods across the urban area to meet the diverse and changing demographics and needs of people and communities.
- 34 The wording closely reflects provisions which have been well tested through the Auckland and Christchurch fast track planning processes.⁷ The Auckland Unitary Plan Independent Hearing Panel has also released Interim Guidance which recognises that "*a wide range of housing types and densities should be enabled across the urban area*".⁸ More specifically, the independent hearings panel appointed for the Christchurch Replacement District Plan has decided that:⁹

[328] As to the needs of our increasingly ageing population, the evidence satisfies us that it is important to allow for a range of different housing choices.

[329] That includes making sensible enabling provision for retirement villages, throughout all residential zones.

...

[332] We find that ageing in place, whereby older persons have choices to downsize from their family homes yet remain within their familiar neighbourhoods, is important not only for

⁷ See for example, Policy 5 in Part 1 - Chapter B Regional Policy Statement - 2.1 of the Proposed Auckland Unitary Plan - Council's closing statement for Topic 013 (B2.1, B2.3, B2.5 and Appendix 1.1). They are also recognised in Objective 14.1.1 of the Christchurch Replacement District Plan.

⁸ Interim Guidance for Topic 013 – RPS Urban Growth.

⁹ Decision 10 Residential (Part) (and Relevant Definitions and Associated Planning Maps).

the wellbeing of our older citizens but also for the communities of which they should continue to contribute to and be part of.

Part B: Objectives and policies relating to evidence and monitoring to support decision-making

Objective

35 The RVA supports Objective B1.

Policies B1 – B4 – Housing Assessments

36 The RVA supports the requirement for medium-growth and high-growth urban areas to carry out a Housing Assessment and a Business Land Assessment, on a three-yearly basis (Policy B1). It particularly supports the requirement for those assessments to:

36.1 estimate the demand of different groups in the population for different types of dwellings (Policy B1, bullet point 1); and

36.2 have particular regard to demographic change (Policy B2, bullet point 1).

37 Those requirements, along with the RVA's other proposed changes will ensure the particular housing needs of the growing ageing population will be taken into account in the Housing Assessment.

38 As discussed earlier, there are significant challenges in planning for the growth of the elderly population. It is important that Housing Assessments are expressly required to respond to the ageing population. A failure to provide adequate housing and care for this vulnerable sector of the community will have a range of significant social and health and safety effects. On the matter, the independent hearings panel appointed for the Christchurch Replacement District Plan appeared to place considerable weight on the views of Dr Alistair Humphrey on behalf of the Christchurch District Health Board, noting his evidence as follows:¹⁰

[295] In answers to the Panel, Dr Humphrey commented that an ageing population:

... can be a resource to our community, or ... a burden... We want to live in a province where our elderly folk are a resource.

In order to help them to be a resource, they need to have the kind of residential property which accommodates their changing life stages...

[296] He agreed that a very important issue in terms of the health and wellbeing of older people is whether they would have to be alienated from their existing established communities. He commented:

¹⁰ Decision 10 Residential (Part) (and Relevant Definitions and Associated Planning Maps). See also above quote.

... many elderly people with a larger home want to downsize if they can, and we need to have a plan which accommodates those people in their changing life stage without pushing them away from their communities.

- 39 Housing Assessments will drive the setting of minimum targets and regulatory responses, so those assessments must be robust. Detailed instruction to councils needs to be provided on the process for undertaking those assessments. It is important that this material is developed with significant input from independent practitioners so that it is of a high quality and workable. This material should be included in an appendix to the NPSUDC so that it is binding, not just guidance. The government should also establish a list of accredited suppliers who are able to undertake the work in a robust manner, as most councils are unlikely to have all of the necessary skills to undertake those assessments internally.
- 40 Local authorities will need extra capacity to undertake those assessments, to ensure capacity is not diverted from their core functions (such as processing resource consents). The RVA suggests that central government funding is required to ensure these extra costs are not passed onto ratepayers or added to the cost of new homes through development contributions.
- 41 The RVA also considers amendments are needed to make councils' consultation obligations more certain in relation to the Housing Assessments.
- 42 To address the above matters at paragraphs 38-41, the RVA seeks the following relief:
- 42.1 Amend Policy B2 bullet point 1 as follows:
- Demographic change, including population growth, the ageing population, and household size projections, using the most recent Statistics New Zealand growth projections set out in Appendix A2.
- 42.2 Add a new policy after Policy B3:
- Local authorities must publish each Housing Assessment and Business Land Assessment on their website as soon as practicable from when it is finalised.
- 42.3 Amend Policy B4 as follows:
- In carrying out the assessments required under Policy PB1, local authorities must consult with infrastructure providers, community and social housing providers, the property development sector and any other relevant stakeholders to enable a broad range of views and information to be gathered to properly inform the assessments as they see fit.
- 42.4 Add an appendix which sets out detailed instructions for undertaking Housing Assessments and Business Land Assessments.
- 43 The RVA also requests that the government:

43.1 Establish a list of accredited suppliers for undertaking Housing Assessments and Business Land Assessments.

43.2 Provide sufficient funding to local authorities to undertake Housing Assessments and Business Land Assessments.

Policy B5 - monitoring

44 The RVA generally supports the requirement in Policy B5 on Councils to monitor a range of indicators relating to housing and business land. However, the RVA considers that councils will need to monitor information on demographic changes, including the ageing population, which will substantially affect the demand for different housing types and sizes.

45 It also considers that councils will need to monitor information on the demand and supply of different housing types and sizes. For example, there may be sufficient 3-bedroom homes to meet demand for that housing type, but insufficient 1-bedroom and 2-bedroom homes. Or, there may be sufficient family homes but insufficient homes for elderly people.

46 Further, the RVA considers that the NPSUDC should not allow local authorities to determine whether monitoring results should be made publicly available. Such a discretion will not ensure transparency and will create a need for official information requests, which can be time consuming and expensive to pursue. The information collected and used by relevant local authorities will directly influence their planning decisions. The information should therefore be made available to anyone likely to be affected by it.

47 To address those issues, the RVA seeks the following changes to Policy B5:

To ensure that local authorities are well-informed about the market's response to planning, local authorities must monitor a range of indicators on a quarterly basis, or as frequently as possible, including: ...

- The demand for and supply of different types of accommodation.
- Demographic change, including population growth, the ageing population, and household size projections...

Local authorities must ~~have regard to the benefits of publishing~~ the results of ~~its~~ their monitoring under policy PB5.

General comment on policies

48 The RVA notes that the policies are quite repetitive and could benefit from consolidation. For example, "demand" is already defined, so explanation of the term is not required in Policy B1 bullet point 1, and the bullet points in Policy B3 are already addressed through the definition of "sufficient" and "development capacity".

Part C: Objectives and policies relating to coordinated evidence and decision-making

Objectives

49 The RVA supports the intention to promote coordination within and between local authorities and infrastructure providers. However, it considers that Objective C1 tries to address too many issues and results in an unclear purpose. It is unclear what planning decisions should be “consistent” with and what planning processes should be “responsive” to. Consistent planning decisions are already dealt with by Objectives A1 – A3. Responsive planning processes are already dealt with by Objectives D1 and D2.

50 Accordingly, the RVA seeks that Objective C1 is amended to read:

To promote coordination within and between local authorities and infrastructure providers in urban areas, ~~consistent planning decisions, and~~ integrated land use and infrastructure planning, ~~and responsive planning processes.~~

Policies

51 The RVA supports the intention of Policies C1 to C3, however the directions are very weak. In general, councils and infrastructure providers are already seeking to achieve those outcomes. The question is how to achieve that efficiently and effectively, which the NPSUDC does not address. And, as noted, the NPSUDC fails to acknowledge the critical role all infrastructure providers will play in enabling efficient and effective development.

52 Because the issue of infrastructure is so critical, the RVA consider its needs to be addressed through a specific policy rather than indirectly through the more general Policy D2.

53 Accordingly, the RVA requests a new policy:

A local authority must consider all reasonable options available to it to enable infrastructure development and must implement a range of options that will ensure timely and sufficient infrastructure supply to meet residential and business demand in the short, medium and long-terms.

54 The RVA also requests that the government expedite other legislative amendments (such as changes to the Local Government Act) to support that policy.

Part D: Objectives and policies relating to responsive planning

Objectives

55 The RVA supports the general intention to ensure planning decisions adapt and respond to market activity. It considers there is some unnecessary overlap and repetition between the objectives which could be removed by consolidating Objectives D1 and D2 to read:

To ensure that local authorities adapt and respond to market activity, to enable urban development in the short, medium and long-terms.

Policies D1 – D4 – responding to insufficient development capacity

56 The RVA supports the intent of Policies D1 to D4 to require local authorities to take action where evidence shows that development capacity is not sufficient. However, the policies are relatively weak and do not require councils to take any particular actions (for example, Policy D2 just requires councils to 'consider' potential responses). The policies need to include clearer expectations and direct councils on matters such as drafting planning rules, making decisions on consents, notification and conditions. Amendments also are required to ensure a timeframe is specified.

57 Accordingly, the RVA seeks the following amendments:

Policy D2

A local authority must consider all options available to it under the Act to ~~enable~~ ensure that sufficient development capacity is available to meet residential and business demand, including but not limited to...

Policy Dx. Every local authority must implement Policies D1 to D4 as promptly as is reasonable in the circumstances, and in all cases, so that sufficient development capacity is provided within 3 years of the Housing Assessment required under Policy B1 showing that development capacity is insufficient to meet demand.

Policies D5 – D9 – targets and strategy

58 The RVA supports the intent of Policies D5 to D9 to set targets and strategies for housing supply. It particularly supports the requirements in Policy D5 to set targets for different types of residential accommodation and to provide an additional margin above projected demand.

59 However, the RVA requests that a larger margin is required for brownfield areas, compared with greenfield areas. This is to recognise the additional complexities of developing in those areas. For example, retirement villages are typically located in existing residential areas. Challenges of developing in these areas include the increased likelihood of notification and submissions from neighbours wishing to maintain the status quo, and the limited number of available sites of sufficient size and density provision.

60 Further, the inclusion of targets in regional policy statements without using the schedule 1 process will mean there is no public testing of the assessment process. If the targets are wrong, that will likely lead to inappropriate rules in district plans (as they must give effect to regional policy statements). Bearing in mind the need to avoid delay, the RVA has suggested two options to address this issue without requiring a prolonged planning process.

61 The RVA also considers amendments are needed to clarify the councils' consultation obligations in relation to future land release and intensification strategies.

62 In addition, the RVA considers definitions of brownfield and greenfield land would be helpful, based on the Proposed Auckland Unitary Plan definitions.¹¹

63 To address the above issues, the RVA seeks the following relief:

63.1 Amend clause 3 to include two new definitions:

Brownfield land: Any already urbanised land to be redeveloped, often for more intensive or different land use.

Greenfield land: Land identified for future urban development that has not been previously developed.

63.2 Amend Policy D5 as follows:

Regional councils must set minimum targets for the supply of sufficient residential development capacity...

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

For greenfield land:

- 20% over and above project short and medium-term demand; and
- 15% over and above projected long-term demand; and

For brownfield land:

- 35% over and above project short and medium-term demand; and
- 25% over and above projected long-term demand.

63.3 Amend Policy D9, bullet point 2 as follows:

Take into account the views of infrastructure providers, land owners, the property development sector and any other relevant stakeholders to enable a broad range of views and information to be gathered to properly inform the strategy as they see fit.

63.4 Require councils to use accredited suppliers to undertake the assessments (see above) or require assessments to be peer reviewed by the Ministry for the Environment (or another appropriate organisation).

Implementation programme

64 The NPSUDC requires local authorities to prepare Housing Assessments and Business Land Assessments, and amend their regional policy statements to include targets, by the end of 2018. It is important that guidance information is released at the same time as the NPSUDC, so that it is available before local authorities

¹¹ Auckland Council closing remarks – Topic 065 (Definitions), Appendix A (track changes).

commence those assessments. That will help to ensure they are prepared in a robust and consistent manner.

Other comments

- 65 The NPSUDC should use numbered clauses (e.g. (a), (b), (c)) instead of bullet points to ensure clauses can be easily referred to in the future.

Next steps

- 66 The RVA is keen to engage in the development of the NPSUDC and requests the opportunity to discuss this submission with you. We look forward to hearing when you are available to meet with us. We are available to meet in Wellington to accommodate your schedule.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'John Collyns', with a large, stylized flourish at the end.

John Collyns
Executive Director
Retirement Villages Association

APPENDIX - CONSULTATION QUESTIONS

1 *What do you think of the proposal to target policies to different areas?*

See paragraphs 32 and 36.

2 *Enabling growth and development while managing the effect:*

2.1 *Would these policies result in better decision-making under the Resource Management Act 1991 for urban development?*

2.2 *What impact would the policy to recognise the positive impacts of development have?*

See general comments throughout submission.

3 *Meeting a range of demands:*

3.1 *What could the Government do to help local authorities carry out the assessments?*

3.2 *Is three years an appropriate timeframe to update the assessments?*

3.3 *Is there anything else that would contribute to better understanding the supply and demand of development capacity?*

See paragraphs 39-43.

4 *Understanding and enabling the market:*

4.1 *What else would help local authorities and the Government better understand how planning interacts with the market?*

4.2 *Should there be more direction in the proposed NPS on how to assess the commercial feasibility of plan-enabled development capacity?*

See paragraphs 39-43.

4.3 *Are the margins of development capacity over and above projected demand set at an appropriate level?*

4.4 *Should there be a different margin for brownfield and greenfield development capacity?*

See paragraphs 58-63.

4.5 *Would the proposed monitoring give a complete picture of how responsive the planning system is? What other things could you see value in monitoring?*

See paragraphs 44-47.

4.6 *What challenges do you see in interpreting price signals?*

5 *Implications for infrastructure:*

5.1 *Would the proposed policies contribute to better coordination between land-use planning and infrastructure provision?*

5.2 *What else would assist with better coordination?*

See paragraphs 25-27; 49-54.

6 *Roles and relationships between councils:*

6.1 *What are your views on setting minimum targets in the regional policy statement?*

See paragraph 60.

6.2 *Are policies in the proposed NPS clear enough on how local authorities within medium and high growth urban areas should work together?*

7 *Implementation programme:*

7.1 *Which of the suggested guidance information would be most useful for local authorities?*

7.2 *Would it be good to involve practitioners in the development of the guidance material?*

7.3 *Apart from supplying guidance, how could the Government help local authorities to apply the NPS?*

See paragraph 64.