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NPS Urban Development Capacity
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Dear Madam/Sir

Proposed National Policy Statement on Urban Development Capacity – Consultation document

Thank you for the opportunity to contribute feedback to the proposed National Policy Statement on Urban Development Capacity (NPSUDC). Tasman District Council (TDC) was involved in the Productivity Commission's Inquiry into 'using land for housing' and it made submissions on both the issues paper and draft report in 2014 and 2015 respectively.

Housing unaffordability context

Before dealing directly with the proposed NPSUDC we have some comments on the context of housing unaffordability. Council remains disappointed that Government's focus continues to be narrow, looking at availability of land as the factor constraining the supply of affordable housing. As TDC has previously said by examining this issue in isolation, an opportunity is lost by the Government to develop policy responses to other factors that together with supply are constraining the housing market and collectively driving its hyper-inflation. These other factors include bare land market behaviour, the marginal cost of infrastructure, financing packages for low-income prospective home owners, the construction market's limited provision of generally smaller and more industrial scale housing, and the residential property market's behaviour that takes investment away from new capacity.

Availability of consented subdivisions to move on to the property market, the availability of brownfield sites for redevelopment, and the availability of land at prices that would encourage more affordable housing, are different matters again. Other factors influencing availability and affordability of housing include:

- the motives of owners and developers and the timing of release of land parcels onto the market;
- the cost of land and building (including compliance costs of which GST at 15% is one of the highest single costs);
- the cost of servicing land with trunk services;
- the methods and cost of housing construction which have continued to rise and can comprise 50% of total costs;
- the forms and prices of housing delivered by the construction industry

- the structure and financial viability of agencies involved in the provision of affordable housing and the opportunities to build up equity in social housing.

All these factors are important in the several markets that respond to housing demand and in the quest for more affordable housing.

We see the system that yields the supply of serviced land for housing (development capacity) as being an interlinked series of Council services and markets, with several phases of availability driven by either council or market players.

The Government has made housing a national priority but has not increased its investment in either public sector or social housing provision with capital grant funding being withdrawn. The Nelson Tasman Housing Trust has recently been quoted in the local press saying that any future projects have been severely curtailed by the Government's decision to withdraw capital grants for community housing providers. Previously, the Trust had used funding from third party sources, traditional mortgages and the government grants, which covered between 45 and 50 per cent of new builds, to finance development. (Nelson Mail June 23rd 2016).

As an example of the limited influence of the NPSUDC in this wider context, the proposed Policy PB4 requires local authorities to consult with a number of stakeholders that include community and social housing providers. Council can consult with such providers, but the contribution they will be able to make to solving the affordability problem that exists in the District appears limited based on current funding mechanisms. There is also a need for greater strategic co-ordination of the community housing organisations currently involved in the provision of social housing nation-wide.

Affordable housing

The MFE webinar to local government on 29 June confirmed that in the Government's view the affordability of housing is the most important issue driving the NPSUDC. However, the NPSUDC in itself will not necessarily make housing more affordable. As one principal output from the NPSUDC, the provision of a greater supply of housing land, will not mean that developers will choose to build affordable homes, over more profitable homes, and whether a house is affordable will depend on the market dynamics of each location.

The Productivity Commission found that inclusionary housing policies to encourage the provision of affordable housing as part of a development in resource management plans are rare. It reported that only Auckland Council and Queenstown Lakes District Council have such provisions in their current or proposed district plans. And recent media coverage would suggest that these provisions have little impact. If Government wanted to see more inclusionary zoning techniques it could provide specific legislative mandate for such provisions to be included in resource management plans (with all the attendant difficulties around definition and administration).

Section 106 of England's Town and Country Planning Act 1990 makes the provision of affordable housing a material consideration for the provision of planning approval and it is therefore often included as part of a section 106 agreement with a developer to be provided upon granting of planning permission. If the provision of affordable housing is to be achieved in medium and high growth urban areas in New Zealand, a similar legislative mandate would be required.

In Districts like Tasman it is the affordability of housing that is the issue rather than limited marginal supply of housing land (as set out in the Housing Accord). The provision of further housing land alone will not therefore solve the affordability problem, because of the interplay of other factors influencing the residential property price points.

Decision making for urban development

The consultation document for the proposed NPSUDC asks whether objective OA3 and policy PA3 would result in better decision-making under the RMA for urban development. The answer to this has to be much broader than the set of objectives and policies in the NPSUDC, as there are many environmental values and risks that are affected by urban development, and the benefits of sufficient marginal capacity to meet projected demand is one only.

We interpret the overall tone of the proposed NPSUDC provisions as focussed solely on promoting marginal urban development capacity. The main objective is to increase supply of housing in medium and high growth areas of New Zealand. While Objective OA1 looks *"to support effective and efficient urban areas that enable people and communities to provide for their social, economic and cultural wellbeing",* the focus of most provisions is to actively enable additional development that responds to demand, ultimately to support competitive property markets as the only relevant indicator of community wellbeing.

This lack of adequate context is concerning, as given the status of such focussed national policies following *King Salmon,* the broad framework of the RMA in Part 2 is not likely to condition the application of a number of the policies as proposed. The polices do not adequately account for co-requisite values in section 5 nor matters in sections 6 and 7 that are routinely relevant and important in urban development decision-making. If this directedness in the proposed NPSUDC is not qualified in some way, then this is likely to progressively lead to high tensions in attempting to find "sufficient development capacity".

Many unsustainable outcomes might be forced given the current and increasing constraints on spatial development in locations of current urban forms. Most New Zealand cities and larger towns are environmentally constrained by suitable land topographically, in relation to the coast and water bodies, hazard risks, and to competing land uses with significant economic or ecosystem value. A counter might be that the NPSUDC provisions enable responses beyond current urban areas, and so in the limit circumstance might force new locations for sufficient urban capacity to be found. But the difficulty will remain in that without any accounting in the NPSUDC for possible increasing spatial constraints as the above examples indicate, in the "locations that the housing assessment indicates…are of highest demand" (PD4), the full set of environmental values at stake might be unevenly accounted for or sustained in continuing implementation of this national directive.

In answer to the key question posed in the document, this would not therefore result in better decision-making for urban development in the sustainable resource management sense.

We suggest qualifying Objective OA2 to enable the sustainable management context to be accounted for by adding:
"while promoting the sustainable management of natural and physical resources likely to be affected".

Serviced status of development capacity and funding implications

The proposed NPSUDC requires development capacity provided in plans to be serviced or likely to be serviced with infrastructure (PB3 and PC3). This can only be achieved under the LGA through the provision of sufficient funding for infrastructure delivery. Council is required to be financially prudent when controlling infrastructure supply to support urban growth. For councils to contribute infrastructure to support urban development capacity, they are limited in their ability to incur or exacerbate their debt to fund programmed capital expenditure. Infrastructure provision is one of the several constraints to ongoing implementation of the NPSUDC that is different from those discussed above as environmental constraints.

The funding of infrastructure is achievable by rates, borrowing and charges. Marginal costs of infrastructure can be funded by a mix of rates and charges, and this funding capacity is supported by borrowing capacities. In our case and we are sure other Councils as well that likely infrastructure provision under such constraints might in time limit, in time or location, the provision of sufficient development capacity. We consider that the Council cannot fund all the infrastructure for all areas currently identified in our unitary plan for future urban development in Tasman District, at present. We adopt a capital works programme under successive long term plans that prioritises expenditure and spreads out associated debt. If it wasn't for our debt profile, we could consider bringing forward some capital works but even then councils can only manage a certain number of capital projects at any one time consistent with logistics and other resource capabilities.

Furthermore, there are limitations on the use of development contributions (DCs) as capital charges under the LGA 2002. The recent changes to the development contributions provisions that were made in the Local Government Act 2002 mean that local authorities are more accountable in how DCs are levied. If, to ensure compliance with the NPSUDC, greater areas of land now have to be serviced, this could result in increasing levels of DCs as well as indebtedness. Indebtedness would increase as upfront capital is needed to establish the infrastructure, DCs come later by dripfeed and also as it is politically very difficult for DCs to rise to a level that completely responds to the growth reason for the infrastructure necessary. This likely increase is in tension with the need to consider reducing DCs to incentivise certain forms of potentially affordable housing, usually intensive forms near town centres. Any cross-subsidisation for such capacity has to be funded by some other means, such as higher DCs from other development capacity such as larger residential dwellings or by increasing rates.

The development community already regularly complains to Council about the cost of development contributions as a component of residential development costs, so this will further exacerbate this tension. It may lead to higher numbers of applicants taking part in the new objection process for development contributions levied, although the processing costs associated with independent commissioners may dampen this.

The definition of *"sufficient"* meaning the provision of enough development capacity to meet residential and business demand plus a margin of 20% over the short and medium term and 15% over the long term, will place further pressure on development contributions, rates and indebtedness. Planning for the additional capacity margins increases the risk of over spending on infrastructure and has cost implications with debt levels increasing.

We question how the Minister responsible for this policy statement may enforce implementation of the proposed NPSUDC policies, when funding is not within the scope of such enforcement, being under the LGA. This is a further reason for some acknowledgement within the NPSUDC that indefinite provision of sufficient capacity may be impossible to achieve.

At a technical meaning level, Council considers that the NPSUDC needs to be more explicit in what it means by "serviced". Does this mean trunk and main services only? Or does it include all development connections to Council services as well?

Council notes with interest the announcement on 4 July 2016 for the $1bn infrastructure fund to enable interest free loans to five high growth councils for infrastructure for housing developments (Auckland, Tauranga, Hamilton, Queenstown and Christchurch). This appears to be an acknowledgement that Local Authorities are struggling to finance the infrastructure required, as discussed above. Councils other than those identified by Government are also struggling to finance infrastructure. An examination of SNZ data interestingly shows that when comparing Tasman with Auckland, even though scale is different, the ratio of new house building which consumes infrastructure capacity, to the existing housing stock, is not significantly different.

Likely Infrastructure

It is unclear from the NPSUDC what is meant by “infrastructure that is likely to exist”. The meaning of sufficient development capacity referring to “adequate infrastructure …likely to exist, to support the development of land” and its “likely availability” in PB3, does not help. Council is open to developer-led servicing, with a recent Plan Change (PC51) to the Tasman Resource Management Plan enabling this formally. However, there will always be tensions where the provision of services by developers has benefit beyond the boundary of the land being developed. For developers it is understandable that they should seek to recoup the differential cost from either the Council or from upstream land owners.

Growth does not always occur in the location, sequence or overall timing that Council predicts. Council may service an area of land identified for residential or business growth, but developers may choose to develop a different area of land first. This has associated risks for Council’s capital programme and ultimately, its debt profile.

Council operates a development planning system called the growth demand and supply model. This tool drives the engineering infrastructure planning process to identify the projects that would be required to service growth. Council’s growth demand and supply model is reviewed every three years. The three years proposed in the NPSUDC for the review of housing and business assessment is considered an appropriate timeframe. A review at such intervals helps mitigate the risk that excess development capacity will be provided if growth in demand starts to reduce. Infrastructure planning would accordingly be adjusted every 3 years in the long term plan.

However, the complexities of the associated financial planning including loan caps and actual developer contribution income are considerable. An alternative approach to servicing the additional margin (20% and 15%) of development capacity would therefore be to identify and conceptually plan some medium to large growth projects, but with the actual construction not “funded” or where funding is expected to be developer led. We advocate that this approach be included in the scope of likely infrastructure under the NPSUDC.

We suggest clarifying the meaning of “adequate infrastructure …likely to exist, to support the development of land” to include expected developer provision of infrastructure as well as council-provided infrastructure

Main Urban Area

The Nelson medium growth urban area referred to in the NPSUDC appendices comprises parts of Tasman District but is unclear which census area units are included. A map showing the boundary of the main urban area versus the territorial authority boundary should be included to fully understand which parts of the District fall within the identified medium growth area.

We appreciate that as PD4 indicates, locations beyond such urban areas could be sourced for sufficient development capacity, and councils should not become fixed on them. However, it is a potential issue for a district such as ours. We have a large District area of nearly 10,000 square km and within that boundary we have sixteen main settlements. Not all of these settlements are growing and so it may be inadvisable to look to such areas to help meet growth demands of other parts of the District, as such strategies unlikely to be commercially feasible (as defined). We acknowledge that the main urban areas represent housing and labour markets, which cross over administrative boundaries and agree with this approach.

"*Sufficient*" development capacity

"Sufficient" development capacity is required to meet residential and business demand in medium and high growth main urban areas. This is defined in the NPSUDC as the provision of enough development capacity to meet residential and business demand, plus an additional margin of at least 20% over and above projected short and medium term demand and 15% over and above projected long term demand.

These additional levels of 20% and 15% over the timeframes are arbitrarily too large since they apply to all medium growth and high growth councils (PD1), regardless of their history of providing for housing and business land capacity in the past, and ignorant of the potential constraints on future capacity.

It is apparent that the principle of the margins in the NPSUDC are based on UK practice where historically 'flexibility factors' have existed when assessing housing land and employment land supply. There are sound reasons for adding an additional margin into capacity planning such as:

- to provide a margin for error given the uncertainties in the forecasting process;
- to allow developers and occupiers a reasonable choice of sites; and
- to cope with factors such as some zoned sites not coming forward for development.

In the UK more generous margins have traditionally been applied for employment land rather than for housing land forecasting as this is well known for being more difficult to forecast. Currently in the UK National Planning guidance on housing requires an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under-delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.

The NPSUDC as drafted requires that a huge additional margin of more than 35% compounded, is allocated for the medium and long term periods. This submission describes above the problems for infrastructure planning with over-estimating development capacity. The additional margin for both timeframes should be reduced to 5% for all councils or at least those that have supplied sufficient housing and business land historically. It could rise to a higher margin for those councils that have consistently undersupplied. The requirement in the NPSUDC to review housing and business assessments every three years (page 12) and to undertake quarterly monitoring would in any case highlight to councils if more capacity needs to be provided for, so such a large additional margin is unnecessary.

Being forced to allow for such a large margin in capacity also ignores the contribution that "windfall" developments can make to the housing land supply or business land supply of a council. Windfall developments may comprise developments which have come about where the land wasn't zoned for such a purpose or at such a density. For example, Council is currently assessing a proposal for 116 rural residential style allotments; 55 apartment allotments, 2 commercial apartments and a commercial precinct in its District on 178 ha of land zoned as Rural 3. If consented, this would add substantially to Council's housing land supply in an area not anticipated by the Council's growth model.

Local authorities should be able to make an allowance for windfall sites in the medium term if they have evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply. This would require historic windfall delivery rates and expected future trends to be monitored as part of the requirements under Policy PB5.

Demand

The definition of demand in the NPS in relation to residential development includes different types of dwellings. Objective OA2 requires councils to provide sufficient development capacity to enable urban areas to meet residential and business demand. It is agreed that it is important to monitor demand for different dwelling sizes, however it is difficult with a zoning method of spatial planning under RMA to influence provision of dwellings eg. with a certain number of bedrooms. Internationally other planning systems do allow for such influence but in practice prescription under the NZ zoning regime in urban areas only provides for section size and coverage in relation to dwelling size. It is therefore difficult to see how such demand can be influenced by the present district planning regime. Dwelling size is a response to market demand and preferences. We have had provisions in our District plan for intensive and multi-story residential development but have consistently been told by the development community there is no demand; the exception seems to retirement or lifestyle villages under construction.

Monitoring

Policy PB5 of the NPSUDC requires that extensive monitoring should be undertaken quarterly. This is considered to be too frequent an interval on which to report. The mechanisms that would respond to the results of the monitoring are not sufficiently quick to respond to in any case e.g. rezoning, infrastructure provision. Six monthly monitoring, as required under the Housing Accords would be sufficiently regular a period to enable councils to respond to and act on the results.

The wide range of indicators required to be monitored is very onerous for councils and far exceeds the requirements under the housing accords. This would likely require an additional full time member of staff to undertake the monitoring required for TDC, at an additional cost of up to $100K to Council. It would be preferable for data for a number of the indicators listed in PB5 to be provided by central government for all councils, especially where good quality data is not readily available to individual councils. For example, on affordability - ratio of house price to income, such data is provided by central government in the UK.

It is appreciated that data on market rents is already provided by MBIE and this is useful. Other data e.g. from REINZ on median house prices paints part of the picture for districts such as Tasman's but not the whole picture. The data that is available free of charge shows median house prices for the Nelson/Marlborough region and breaks the data down for Richmond and Motueka only, not for other towns in our District. To obtain the data required for monitoring under PB5 would incur further significant costs.

As well as availability, there is also a question over the reliability of data that is proposed to be used for monitoring. For example district valuation rolls that provide useful information on land which is ripe for development – the RV (vacant residentially zoned titled land), RB (shovel ready land), and RM (multiple residential units) classifications are a valuer's assessment of land ready for development and this obviously influences the market value/sale price that eventuates. However, interrogation of the valuation roll does reveal imperfections, for example areas of land are missing or in the wrong classification.

It is not stated in the NPSUDC whether this monitoring information would be required to be submitted to the Government? The principles for compliance and enforcement of the objectives and policies in the NPSUDC are not clear. How is it intended that such monitoring information would be monitored by MfE and MBIE? And how would the Government ensure the objectives and policies of the NPSUDC are being met?

Co-ordinated evidence and decision making

Policy PC2 requires local authorities and infrastructure providers to work together to agree on data and projections used in the development of the assessments required under PB1. However, policy PB5 makes clear that it is the local authorities that must monitor a large range of indicators on a quarterly basis. There seems an inconsistency here with local authorities being tasked with undertaking a huge data monitoring exercise under PB1 but then under PC2 to work with infrastructure providers to agree the data and projections to be used in the housing and business land assessments? Further clarification is required in the drafting.

Planning timescales

According to Policy PD3 the planning timescales are:

- Short term – 3 years? –amend relevant plans and consenting processes
- Medium term – 10 years? – amend relevant plans and policy statements to provide more capacity
- Long term – 30 years? – provide a broad indication of the location, timing and sequence of development capacity in order to demonstrate that it will be sufficient

The length of these periods, short, medium and long is not explicit but page 33 refers to the timescales in the NPS as being 3, 10 and 30 years to align with Local Government Act planning processes. Policy PD3 would benefit from clarification of the length of time periods.

Implementation timescales of NPSUDC

Policy PB1 and page 27 of the consultation document appear to cover its implementation but there appears to be an inconsistency and further clarification would be welcomed. Councils are to apply the NPSUDC policies and frequent monitoring is expected to be from November 2016. By the end of 2018 Councils are to undertake the housing and business capacity assessments and then every 3 years after at least. (Policy PB1). However, page 27 also says capacity assessments and setting minimum targets for development capacity must be implemented within 3 years of NPSUDC becoming operative, so this would be November 2019?

One of the key questions on implementation asks who should be involved in the development of guidance material to accompany the NPSUDC? It is agreed that internationally experienced practitioners should be included in an expert group together with experienced NZ practitioners. Countries such as the UK have much experience in seeking to achieve similar objectives in this NPS and advice based on that experience would save much time and avoid reinventing the wheel, as well as potentially avoiding making similar mistakes. That said of course the UK planning system is much more prescriptive and the defining line between urban and rural much sharper than in New Zealand.

We look forward to being kept informed of progress with the drafting of the NPS on Urban Development Capacity.

Yours sincerely

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