

24 June 2016

Submission on the Proposed National Policy Statement on Urban Development Capacity

To Hon Dr Nick Smith, Minister for the Environment and for Building and Housing

Introduction and Submitter Qualifications

1. This submission on the Proposed National Policy Statement on Urban Development Capacity is from Nicola J Vryenhoek. I hold a current practicing certificate as a Barrister.
2. I have an LLB / BA in Political Science from Victoria University of Wellington. I was admitted to the Bar in Wellington in 1991. I graduated with an LLM from the University of Auckland 2008. I am certified as an Independent Hearings Commissioner.
3. I am an Executive of the Canterbury Branch of the Resource Management Law Association (RMLA) and have been a member of the RMLA since 1996 when I was employed for four years in the New Zealand Treasury in the Crown Company Monitoring Advisory Unit, Wellington.
4. I have over ten years experience as a resource management lawyer based in Queenstown and more recently in Christchurch, where I taught resource management law at Lincoln University in 2016, and worked briefly at the Department of Conservation.
5. I am available for instruction / policy-research opportunities.

Submission Background

6. I was invited to attend a "Christchurch Stakeholder Workshop" with officials from the Ministry for the Environment to discuss the likely content of a Proposed National Policy Statement (NPS) on Urban Design, now called Urban Development Capacity. I attended as an Executive of the RMLA Canterbury Branch, although this submission is made on my own account.
7. Many of the issues raised at that Christchurch workshop are reflected in the draft NPS. My submission concerns those points discussed that have not yet been articulated through the NPS and which require further analysis over and above that contained in the Regulatory Impact Assessment and Cost Benefit Analysis.

8. As background to my submission, I attach a short research paper that was written in response to the consultation with the Ministry for the Environment and was submitted to Canterbury University in fulfillment of a class assignment in intermediate economics (attached as appendix "A"). The 1200 word assignment contains research of peer reviewed academic work published in international journals and discussion papers prepared by New Zealand Government Departments and Research Institutes.
9. The attached work discusses economic evidence and provides justification for relaxing restrictions on density and height limits to promote urban growth within a city like Auckland. It suggests that a significant increase in housing supply solely within the existing Metropolitan Urban Limit (MUL) should reduce escalating house prices driven by a demand shortage. The positive externalities of urban growth are discussed.

Submission

10. The proposed National Policy Statement on Urban Development is limited by its reference to 'capacity'. The definition amending section 30 of the Resource Management Act 1991 (RMA) is inherently limiting, particularly in regard to Auckland. A National Policy Statement should tie together economic, social and environmental policy as 'high policy'. Urban growth for the benefit of New Zealand is high policy. The negative externality of a restriction on the housing supply is more a side effect of urban growth rather than a high-level policy problem. The focus on housing supply in the absence of clearly articulated objectives and policies on other urban growth issues such as transport, immigration and labour supply, lacks proportionality. Significant growth in Auckland's density is desirable if New Zealand is to remain competitive with other cities such as Sydney, Melbourne, Brisbane or Hong Kong. It is my submission that:
 - (i) Planning rules that facilitate a significant increase in Auckland's building density and height limits within the MUL should be implemented through the NPS;
 - (ii) Use of Council owned greenfield/brownfield sites (separated by streets as shading buffer zones within Auckland's MUL) would reduce the impact of negative externalities on neighbouring properties as a consequence of increased building height; and
 - (iii) Block zoning for residential apartments (campus style city developments) could meet market needs and support positive externalities of urban growth consistent with economic theory.
11. The objectives OB1 and OC1 require Central Government investment in the research sector to develop technology for an appropriate framework that incorporates underlying service infrastructure and 3D geographical cadastral data with links to both local and central government land information (refer footnote 3 of Appendix A). The development of technomass database information would support Regional and Local Government planning sufficient to meet long-term planning requirements under the Local Government Act 2002

as well as short to medium term planning needs under the Resource Management Act 1991. It is my submission that:

- (i) Investment in the university and/or CRI sectors for a useful technomass ecosystem database would be a significant decision making asset for the benefit of New Zealand;
- (ii) A small pilot project in an urban centre should be considered; and
- (iii) Planning timeframes within the Local Government Act 2002 and the Resource Management Act 1991 should be aligned in order that Authorities comply with the assessments required by PB3 and PB1 to met long-term expenditure and planning goals.



Appendix A

ECON207: Intermediate Microeconomics – Households and Government

There has been publicity in the media recently about house prices in Auckland being some of the most unaffordable in the world. Some people suggest land prices are higher in NZ because of council restrictions such as zoning and other regulations that restrict what can be built on land.

This essay asks you to use your knowledge of externalities to present the arguments for and against council restrictions on building and land use in a major city like Auckland. As part of your answer state whether restrictions on building and land use to reduce externalities are worth the cost a higher land prices in a city like Auckland.

The primary contention of academic literature considered in this work is that zoning as a regulatory tool places restrictions on the supply of land or houses which causes high land prices. Underpinning that is neo-institutional economic and transaction cost planning theories informed by Ronald H. Coase (Lai, 2006) (Evenson, 2003)(Fischel, 2015). In the New Zealand context it is argued that existing resource management planning appears to respond poorly to urban development challenges related to competition for resources and urban externalities, resulting in the under development of residential capacity required to meet long term demands of a major city like Auckland. Since 2001 there has been a surge in average house prices and rent across all regions of New Zealand, but most noticeably in Auckland where tight land regulation makes it one of the most expensive cities in the world to live in (NZIER, 2014 and 2015).¹

Externalities are defined in Palgrave Economics Dictionary as the “indirect effects of consumption or production activity, that is, effects on agents other than the originator of such activity which do not work through the price system” (Laffont, 2008). Indirect effects are both positive and negative. Negative externalities of a restriction on the supply of housing can be classified by type: population externalities such as congestion or noise, lack of sunshine amenity due to the height of a new building, landscape deterioration, pollution activities, or other societal malevolence such as racial tensions (Kono, 2010). Acts of benevolence and knowledge spillovers are examples of positive externalities that tend to follow urban growth linked to the process of urbanization, agglomeration, and income distribution in the labour market (Durlauf, 2008). Congestion – a negative externality – is said to follow urban conglomeration – a positive externality. However, it is also linked to city sprawl. The size of urban agglomeration therefore is a tradeoff between forces of congestion and agglomeration (Jones, 1999). Because evaluation of the costs and benefits of government policy objectives is a legislative planning requirement, land values must be considered in this context together with other related factors such as the labour market, transportation, and economic growth.² The academic literature discussed in this essay provides evidence that a constraint on housing supply causing high property prices is not

¹ Auckland house prices have increased at an annual rate of 26.6% exceeding 9 times the gross income in Auckland (Reserve Bank, 2015).

² Section 32(2) of the Resource Management Act 1991 requires that an economic evaluation accompany any policy plan or statement, evaluating costs and benefits of the objectives of the plan or statement including the proposed national policy statement on urban development capacity, which in the authors opinion should be a positive statement for the benefit of New Zealand and reach beyond the self interest of local communities (Pellegrino, 1993).

worth the trade off to urban growth opportunities within a city like Auckland in the absence of good spatial planning and significant upward adjustment to urban density.

Resource Management is the main regulatory tool for land planning in New Zealand. It is a complex system of national and municipal rules combined with legal enforcement powers arising out of statute and the common law. The Auckland Housing Accord (2013) is an interim measure designed to facilitate a perceived failure of the regulatory process and response to market failure in dealing with externalities of the urban housing market. Economic theory is increasingly viewing urban economics within a broad framework of academic disciplines to meet the challenges posed by Coasian problems (Inostroza, 2014).³ That broad approach is consistent with the complex rules of the resource management regime in which community preservation groups remain a powerful lobby group in the planning process (Glaeser, 2005).⁴ Good intentions and good planning do not always win community approval. Specific regulatory tools commonly used in an urban spatial planning context both in New Zealand and other major global cities, are intended to reduce or internalize externalities within 'zones' that take account of social and economic goals through the use of common planning rules regulating such things as urban boundaries, employment and community well being, open space, views, noise and emissions, building height, density, and use of space (Bertaud, 2005). Methods of reducing regulatory restrictions include expanding the metropolitan urban limit (MUL) or providing for greater housing density and fewer restrictions on height limits. Both options incur both positive and negative externalities (Lai, 2014 and Glaeser, 2008) and remain open to challenge through the adversarial process.⁵

Gyourko (2006) argues and provides evidence that income growth and patterns of spatial dispersion in house prices are inextricably linked and are caused by a scarcity of land combined with a growing number of high income families choosing to live in those metropolitan areas referred to as 'superstar' cities (Evenson, 2003). These cities accommodate families with high incomes and do not have close substitute locations. Regulation and geographical limitations do not permit incursion of their superstar status through increases in density or expansion. The result is an acceleration of house prices in those cities, skewed over and above national averages. Arthur Grimes (2007) asks whether Auckland's MUL has an effect on land prices.⁶ He notes that growth limits as well as other regulatory restrictions like building codes and zoning govern the nature of a city's development. Zheng (2013) relies on data from Grimes and Liang (2009) and advises that the price of land just inside the MUL is approximately 9-10 times higher than land just outside Auckland's MUL. Grimes and Lang (2009) suggest that urban growth limits are effected by multiple factors that also include infrastructure services and new transport routes (Brueckner, 2012)(Grimes, 2010). Accessibility to markets and transport is seen as a significant factor impacting on rents as well as land values (Whipple, 1995).

³ The 3D linkages discussed in this work discussing the city of Bogotá, seek to find methodological approaches to modeling that link with urban economics, urban design, engineering and architecture. Limitations with the type of spatial data required to build technomass are estimations of underground structures including all services and transportation where applicable which would normally be information dispersed amongst numerous organizations and held in different formats. It is suggested that a better understanding of these relationships would lead to better policy making as useful planning indicators in the urban ecosystem.

⁴ *Cockburn and Oriental Bay Parade (Clyde Quay) Planning Society Inc. v Wellington City* (1999) W001/99 and W63/05 for discussion of design guidelines, planning height limits and densities along Oriental Parade as part of a plan change appealed by local resident/building owners in comparison with the Carnegie Hill Battle.

⁵ Refer *Tram Lease Ltd v Auckland Council* [2015] NZEnvC 133; *Landco Mt Wellington Ltd v Auckland City Council* [2008] W042/08 as examples of the use of the adversarial process to protect view shafts.

⁶ The Productivity Commission (Zheng, 2013) defines the MUL as "a zoning restriction that defines the boundary of the urban area with the rural part of the region".

It is argued that internalizing congestion externalities of growth requires upward adjustment to market density (Wheaton, 1997). Although height restrictions may be used to achieve aesthetic considerations, it is also argued that some externalities may be sufficiently large to warrant a regulatory tax as not all social costs are internalized by developers through development contributions (Glaeser, 2005). Social costs include the fact that new apartments may eliminate views from existing apartments, which makes lifting height limits difficult. Glaeser identifies the economic theory that new development could be taxed to the extent that there are negative externalities generated through congestion and possible pure wage depression effects. In contrast it is suggested that any effects are limited, offset by positive externality effects such as significantly increased land values and benefits to the economy of urban growth. Glaeser's research indicates that high-density buildings generally internalize congestion, as transport requirements are reduced through the need for less cars and trips. It has even been suggested that on these grounds, development of tall urban residential buildings should be subsidized not taxed, suggesting a congestion amenity rather than a negative externality or 'disamenity'.⁷

Urban growth is defined in Palgrave and explained as the growth rate of an economy being proportional to the level of research within that economy (Jones, 1999). Urban growth literature underscores knowledge spillovers, labour market pooling, and non transportable input sharing within and between cities as the main reason for growth of agglomeration economies which result in benefits to urban amenity services such as employment opportunities, entertainment, shopping and healthcare facilities (Rosenthal, 2001) (Jofre-Monseny, 2011) (Ding, 2012). This model suggests the best policy for urban growth embraces increased density and supports a national policy growth agenda supporting supply side city living thus reducing congestion externalities. Good urban design also promotes the use of open space, balconies and greenness that can reduce stress. Academic studies prove the importance of safe large green areas in metropolitan areas for the welfare and health of residents and quality of urban living (Sugiyama 2015).

It is suggested in urban planning literature that height restrictions are used to achieve other goals such as restricting job and population densities (Brueckner, 2012). Indian studies suggest that excessive density results in negative externalities - traffic congestion and reduced environmental quality which place demands on infrastructure that Indian cities are technologically and financially not well equipped to support at the necessary levels. The New Zealand Institute of Economic Research (NZIER, 2014) provides an argument for expanding the city spatially arguing that improving land supply reduces rising house prices and improves welfare. That theory suggests it may be optimal for cities to increase their sprawl to deal with other negative externalities such as traffic congestion. In contrast, the theoretical basis behind the analysis of economists such as Bertaud and Brueckner is that building height restrictions reducing city density cause a city to expand spatially and that expanding the city spatially causes congestion associated with greater commuting costs, loss of welfare and higher land values (Bertaud, 2005).

If real demand is driving a genuine housing boom as a contributor to urban growth rather than pure speculative forces (Lin, 2004 and Wang, 2016) (Ciccone, 2008) the risk of an Auckland housing bubble in response to escalating housing demand would be minimized (Glaeser, 2008) (Du, 2011) (Cai, 2013). To focus exclusively on escalating land value ignores

⁷ While San Francisco compares better to Auckland than Boston or New York in terms of geographical constraints such as underground transport networks, existing concentration of building densities and green space, the general theory remains applicable.

the relationship between land values and labour markets, which are a significant factor in New Zealand's economic growth. The World Bank suggests that spatial equilibrium generated as a result of profit maximizing firms and utility maximizing workers in the presence of externalities requires forward thinking policy solutions to generate the optimal solution for urban growth and welfare (Goswami, 2015). Significantly increasing the form, density and height inside Auckland's MUL would lower house prices and could achieve the possibility of a vibrant cityscape that maintains the health and welfare of its residents.

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