



Proposed National Policy Statement on Urban Development: NZPI Submission

Prepared by NZPI Senior Policy Adviser, 4th February 2016

1. Introduction

The NZPI welcomes the opportunity to contribute to Ministry for Environment (MfE) early thinking in the design of a potential National Policy Statement (NPS) which: "...provide(s) direction to local authorities on residential and business development capacity in plans and policy statements to enable growth and change in urban areas". The closing date for submissions is 4 February 2016.

NZPI understands that the timeframe for developing the NPS is short, with a draft NPS due for consultation by mid-2016 with a final NPS to be in place by the end of 2016.

The Ministry's request for comments poses three questions:

1. Is your area experiencing high levels of population growth and challenges in planning for this growth?
2. How could a National Policy Statement and supporting guidance help to address these issues?
3. What could a National Policy Statement and supporting guidance contain?

MfE's request for comments is made at the same time as consultation is occurring on the Resource Legislation Amendment Bill (RLAB). Amendments to the Resource Management Act introduced through the RLAB propose two broad changes that are of particular relevance to this NPS process:

1. A change to regional council and territorial authority functions (ss. 30 and 31) by clauses 11 and 12 of the RLAB, to require "the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in respect of residential and business land to meet the expected long-term demands of the district" (or region); and
2. A range of changes to the provisions of the Act that apply to the preparation and contents of a NPS. Notably the ability to tailor the contents of a NPS to specifically target various areas of the country, and a greater level of control and direction that could be required such as specifying particular methods to give effect to an NPS.

NZPI conducted a preliminary survey with members last month about RLAB proposals and we are able to provide their feedback about the two changes outlined above. This is set out elsewhere in this submission. NZPI would like to reiterate points made in submissions to previous Government initiated inquiries dealing with this matter. Policy interventions that address urban planning issues need to be comprehensively considered alongside other urban development objectives and strategies. NZPI generally supports the use of spatial planning for the successful development of an urban environment. However, we caution that spatial planning should not be limited to addressing the provision of land only in the context of population growth and business opportunities. The planning for future housing or business development needs to be an integrated process which includes all elements that make a successful, livable city. These include locations for employment, social and public services and facilities, transport networks, and other infrastructure, parks, reserves and community amenities and facilities.

The purpose of this preliminary NZPI response is to:

1. Respond to MfE's consultation questions,
2. Provide member feedback that has been obtained while surveying members in regard to similar provisions in the RLAB,
3. Reflect briefly on aspects of advice provided by the Productivity Commission in its recent report *Using Land for Housing*.

2. Consultation Questions

2.1 Question 1 - Is your area experiencing high levels of population growth and challenges in planning for this growth?

NZPI is a national organisation. Some members work in areas that are growing fast – like Auckland. Others work in areas that are contracting. Our experience suggests that because one size will not fit all, careful analysis will be required to build a useful, national, NPS.

If the intention is for the NPS and associated guidance to outline the requirements for determining development capacity, then is a NPS required for that purpose? Or could the same outcome be achieved by another means – for example by means of proposed amendments in the RLAB, or by developing an agreed bench-marking method for measuring development capacity for each TLA or RA and by publicly reporting comparative measures (much in the same way as reports compare and contrast resource consent processing performances between TLAs)?

Much of the urban growth pressure that has been experienced in Auckland in the past five years is because it is the preferred destination for many new settlers arriving due to increased immigration policies and targets set by central government. Local growth plans prepared historically by councils in high growth areas – like Auckland and Tauranga - to meet anticipated demands are no longer adequate. This suggests that there needs to be some sort of coordination between central government population growth planning, and the growth planning of the local government authorities which are expected to provide for increases in local population over and above natural growth and internal migration. The main motivation driving the need for an urban development NPS

appears to be the need to properly plan to accommodate and house population increases that are swelled by new migrants whose numbers are increasing because of central government policy settings. Properly planning for an increasing population would include top-down integrated central, regional and local planning which would feed into land use planning – rather than relying upon Councils to provide land capacity to meet the needs of population growth in the present uncoordinated manner.

We find that while planning for urban growth is a challenge so also is planning for the different kinds of urban housing that are in demand today even in areas experiencing low to no growth, as is the planning that is needed to provide new infrastructures and to maintain these to meet the demands of new and existing urban redevelopment. Because of these other urban planning demands an NPS should be sufficiently broad in scope to:

1. Function as part of central government’s population growth management strategy and implementation function.
2. Adopt a multi-faceted approach to urban development recognising that the supply of residential housing includes low, medium and high density, and mixed-use development.
3. Recognise there are a variety of market factors that influence the distribution of various economic activities and the consequent need for business and residential land both within regions and across the country.
4. Consider designing a contextual rather than a one-size-fits-all approach to different areas of the country to address issues of urban development in the different urban contexts.
5. Promote the need to integrate land supply planning and development capacity planning with the provision of appropriate infrastructure.
6. Identify and promote principles of good urban design, urban form and development.
7. Address issues of resilience (such as the climate change issues of water scarcity, sea-level rise, coastal erosion, seismicity).
8. Acknowledge the changing demographic profile of New Zealand and the impacts such changes are likely to have over the medium term for the urban environment.

An Urban Development NPS addressing the above matters could provide a further tool for Councils in their planning for the urban environment.

2.2 Question 2 – how could an NPS and supporting guidance help to address these (Q1) issues?

NZPI notes the many initiatives and investigations that have occurred in recent years - most under the leadership of MfE - to address issues that have arisen with urban development planning under Resource Management Act jurisdiction. NZPI also notes that few of these have been implemented and the problems remain outstanding. It is understood that the primary motivation behind the current initiative to prepare an Urban Development NPS, at least in the short term, is primarily to address issues of land supply. We suggest that an NPS for Urban Development take a broader focus

than simply providing guidance on how to assess demand for residential development and increase capacity for the same, by addressing the matters outlined in section 1.1 above.

In addition the NPS must acknowledge the finite nature of land and that in some parts of New Zealand topographical or natural hazard challenges exacerbate growth challenges. In some regions rural land plays a more important role in agriculture and horticultural production and economic activity than in others, which makes it important for an NPS intended to intervene at territorial level to require integration with broader regional land use, economic development and trade strategies rather than conflicting with them. NZPI recognises that the draft will include a statement of the planning objectives that are proposed to be achieved through the NPS, as well as an assessment of the likely impact of the NPS intervention. This is in accord with statutory requirements. However, given that this NPS will inevitably be controversial and would need to deal with land development capacity challenges in both currently developed and currently undeveloped land, we advise that the approach required to assess the benefits and costs of NPS implementation options needs to be particularly rigorous and transparent.

In addition, NZPI considers that there is a need for some sort of integrated and coordinated planning required to ensure that central government population growth policies and strategies can be responded to proactively by the various local councils affected, rather than simply rely on the signals from market forces arising from increased demand to drive local government urban growth planning.

Councils experiencing strong growth pressures aim to meet increased housing demand by a mixture of converting rural land that surrounds existing urban areas or is capable of functioning as a satellite urban development, alongside the promotion of medium and high density development in existing residential areas and in central city areas. In some parts of New Zealand this has been more successful than others. For example Wellington City has been successful with significant growth occurring particularly within the central area apartment market as well as an increasing uptake of medium density residential development within existing suburban areas. Auckland has seen considerable uptake in apartment living in its central CBD area after a period when – due to a range of factors including poor design and the provision of limited amenity for inner city living .

Planning for residential redevelopment and intensification necessitates extensive and difficult conversations with communities. This is particularly so where, as is increasingly common in Auckland, Councils are seeking to up-zone existing residential neighbourhoods to accommodate growth in infill development and intensification. There is growing demand for medium density housing, but few opportunities to develop land comprehensively. Consultation undertaken with specific community groups often raises concerns that higher densities will result in poor quality development, crowding of existing infrastructure (roads and pipes), and threaten property values. However many people in these communities want to age-in-place, want their children to be able to live in the neighbourhood, and generally require better quality, insulated houses that are close to shopping and retail options, public transport, and community amenities.

MfE will be aware that councils across New Zealand have taken a range of planning initiatives to provide for greater intensification opportunities. These include plan changes in Wellington (for example) and major unitary plan changes in Auckland. Understandably, these initiatives have been

met with varying levels of opposition from local communities. Appeals to the Environment Court can be anticipated if concerns (such as those summarised in the previous paragraph) are not addressed as part of the planning and implementation process. Up-zoning by itself is an insufficient planning framework to enable and encourage intensive development. We believe that an NPS addressing and supporting a multi-faceted and integrated approach to land supply would help Councils and decision makers in balancing the range of competing interests in the planning process.

NZPI consider that an NPS could help to address these issues by:

1. Including Councils in central government population growth strategies – such as through increased immigration policies – as part of a centrally integrated approach to providing urban development capacity throughout the country to accommodate population growth.
2. Providing Councils and decision makers on plan changes (including private plan change requests) with methods in how to address competing interests and property right issues.
3. Providing clear national direction that medium and high density residential development is an integral component of the land supply strategic direction.
4. Providing guidance on how to address relationships across jurisdictional boundaries in the supply of residential and business land in a metropolitan or regional context.
5. Providing guidance on planning for the integration of infrastructure and development.

NZPI recognises that some of these suggestions have formed the basis of previous MfE TAG (Technical Advisory Group) enquiries and recommendations – but they have not led to effective solutions. This may be because such changes in function are inconsistent with the market-enabling environmental-effects-avoidance purpose of the RMA.

2.3 Question 3 – what could an NPS and supporting guidance contain?

NZPI submits that an Urban Development NPS and supporting guidance does provide an opportunity to address serious issues that have arisen in providing good urban capacity that is sufficient to meet the needs of a population that is growing more quickly than hitherto because of increased levels of immigration. Whether an NPS is the most appropriate mechanism or tool is a moot point. For example changes are proposed to the RMA that go some way to meeting this need. And the Productivity Commission has embarked on a first principles review of NZ's system of urban planning. NZPI considers that central government guidance in NZ's system of urban planning aimed at providing urban capacity for growth needs to include:

1. Mechanisms that enable population growth projections and demands to be negotiated between Councils and central government;
2. Provisions relating to the supply of residential land for the purposes of greenfield, medium density, high density and mixed use development, while differentiating between land that is:
 - a. 'shovel ready' specified in terms of capacity;

- b. zoned but not supplied with bulk infrastructure or requiring infrastructure upgrade specified in terms of costs, timings, and budgets for revenue for needed infrastructure;
 - c. identified in a growth plan as future urban specified in terms of timings;
- 3. Provisions relating to the integration of land with infrastructure to ensure that planning for land release is appropriately coordinated with the planning and timing of investment in network and community infrastructure;
- 4. Provisions providing national direction on the importance of medium and high density development as an integral component of the supply side equation;
- 5. Provisions relating to the national importance of good urban design and urban form outcomes (including criteria such as the need for new residents to have good access to education, basic needs, employment, public space, and public transport) and enabling consenting authorities to include such considerations and matters when processing urban development applications;
- 6. Provisions that address integration between regional council and territorial authority requirements under an Urban Development NPS;
- 7. Provisions that appropriately address the differing contexts of various territorial authorities around the country and the issues they face i.e. not a one-size-fits-all approach;
- 8. Provisions acknowledging and incorporating the impact of natural hazards and resilience issues in planning for urban development;
- 9. Monitoring and reporting requirements along with appropriate timeframes for implementation which take agreed population demand forecasts as an input, and reports urban capacity, and delivery of good urban form and design outcomes.

NZPI considers that all of these requirements are needed to deliver effective urban development planning in times of high growth. In the event that only some of these requirements are able to be included in an NPS (perhaps because of RMA jurisdictional boundaries) then they will need to be provided for by other mechanisms in order to deliver a comprehensive approach.

3. NZPI Member Feedback

Amongst the 40 proposals included in the 2015 RMA Amendment Bill is:

1.5 Strengthen the requirements on councils to improve housing and provide for development capacity.

According to the MfE regulatory impact statement for that proposal, the problem that needs to be addressed through the proposed legislative fix is:

In some of New Zealand's major population centres demand for housing exceeds supply, contributing to inflated house prices and reduced affordability. While housing affordability is a complex problem with many causes, urban regulation (development controls and zoning decisions) and the impact this has on land supply (or development capacity) has been identified as a contributory factor to the problem.

NZPI has surveyed its members in regard to RMA Amendment Bill provisions, and some have used the opportunity to provide qualitative feedback. (NB: to meet consultation timeframe requirements the survey needed to be conducted over a period starting just before Christmas 2015 and ending on January 11th – suffice to say many members were unavailable.) Seven pieces of free text feedback obtained in response to a question asking whether the proposal was supported or not are provided in their entirety and verbatim below.

- Reform should address the quality of housing as well as housing land availability. Residential and employment land availability should be separate policy streams and any predict and provide approach adopted should reflect local demand and uptake.
- Councils affected by growth management issues are already doing this. Government intervention is likely to complicate rather than streamline.
- Regional areas need different approach to high growth areas. While the focus is on housing the relative location and availability of industrial and commercial needs to be put in the equation - integrate live, work and play - especially connectivity.
- Yes but this is aligned to the provision of infrastructure and how this is provided for.
- Zoning land for an activity is not the issue, it is servicing it (an LGA matter through LTPs, Asset Management Plans and Annual Plans, not an RMA one). Using the RMA to increase zoned land is a red herring as it will simply give an on-paper land value windfall to existing landowners but not enable any more development.
- In theory supportive but more detail is necessary here.
- This is a region specific issue and should therefore be treated as such.
- Development capacity is only an issue in some areas. Requiring other councils, where growth is not out of control, to have to plan for this would be inefficient.

While NZPI cannot claim that this feedback is necessarily representative of member opinion, responses have been drawn from members working in the planning profession across the country in both the public and the private sector, and provide some insight.

4. Examination of Productivity Commission report: *Using Land for Housing*

This short submission does not contain a detailed consideration of the discussion and recommendations set out in the Productivity Commission's report (The report) *Using Land for Housing* and which MfE refers NPS submitters to for further information. However a number of matters are raised in that report which NZPI submits need to be part of MfE's assessment of NPS options. These are summarised very briefly in the following points.

1. **Private and public property rights.** The report provides an account of private property rights and the role of planning in protecting them (either for further development or against the effects of an adjacent development), but is silent on the concept of public property rights (roads and public open space are examples of urban assets that are publicly owned). NZPI considers that effective urban development planning needs to provide for appropriate assessment of gains and losses due to a development that accumulate or detract from an adjacent property's value (public or private). While these influences can be dismissed as NIMBYism they are usually caused by real economic losses or gains, and need to be provided for in the urban development planning system.
2. **Externalities and agglomeration benefits.** Externalities may include changes in property values (up or down) due to other developments. The report states: *many decisions of local government through the planning system effectively protect the interests and wealth of those who already own housing, at the cost of those who do not. These decisions also create externalities for the wider economy, including the potential loss of agglomeration benefits to the economy from restrictions on growth and higher living costs than are necessary.* NZPI submits that agglomeration benefits are one type of externality. We submit that urban development planning analysis which is based upon such an economic basis should list all externalities which are in play, not just a selection. For example it is generally accepted that a negative externality of greenfield development that is imposed on new residents is the high cost of transport for them to access most amenities. This sort of comprehensive economic analysis, where losses and gains to all actors, be they government, developers, residents, investors may be assessed, in order to weigh their comparative contributions toward equity, efficiency and sustainability.
3. **Infrastructure and greenfield land.** The report states (pg 320): *The Government will also need to ensure that infrastructure servicing is brought forward in greenfield sites enabled by this framework. This may be by imposing service obligations on core infrastructure providers; tendering directly for services and compelling providers to accept the resulting debt and assets; or other alternative methods of provision. In doing this, the Government should take care to ensure that infrastructure providers are not absolved of the costs of growth in such a way that makes this model of enabling residential capacity more attractive to councils or infrastructure providers. This would incentivise providers to price efficiently and pass on the costs of growth.* This clearly recognises the planning nexus that integrates and interconnects processes to zone land with processes to ensure that infrastructure is provided and paid for. It is our understanding that this sort of integrated planning – while it might be desirable - is not currently possible in the RMA, and nor could it be incorporated into a National Policy Statement. Various forms of “planning gain” such as land increasing in value when land is

up-zoned, or when locations become more valuable when new public infrastructure is provided (such as wastewater, park, road or swimming pool) then an issue arises as to who should pay for such infrastructure, or whether a windfall tax or levy should be paid by the private property owner whose property increases in value through no action of the owner. This is a significant capital gains matter which is presently conducted through the Local Government Act. Should that separation continue?

5. Conclusion

Thank you for the opportunity to make a submission on the scoping of a proposed National Policy Statement for Urban Development. NZPI considers there is merit in preparing such an NPS, especially if the NPS can address the wide range of issues that are relevant to urban development today. Our concern however, which is echoed in Productivity Commission findings, is that the RMA is not designed to function as a development planning statute and will not permit the kind of constructive and guiding NPS that we believe is necessary.

Ends