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# National Policy Statement – Urban Development

Local Government New Zealand's submission on the NPS - UD

9 October 2019

## We are. LGNZ.

LGNZ is the national organisation of local authorities in New Zealand and all 78 councils are members. We represent the interests of councils and lead best practice in the local government sector. LGNZ provides advocacy and policy services, business support, advice and training to our members to assist them to build successful communities throughout New Zealand. Our purpose is to deliver our sector's Vision: "Local democracy powering community and national success."

This final submission was endorsed under delegated authority by Dave Cull, President, Local Government New Zealand (LGNZ).

## Summary Position

- Support. LGNZ understands and many councils welcome a genuine contribution of national direction to sustainable growth. LGNZ also supports evidence-based planning that enables efficient and effective delivery of housing and business facility development to increase local and national economic growth. However, LGNZ believes significant changes are needed to create clarity for councils to help deliver what the existing NPS-UD intends to achieve. We highlight the four priority reasons in the following section, with proposed mitigating factors if the Government continues to pursue its implementation plan.
- Over-simplification. In its current form, LGNZ views the NPS-UD as a misapplied approach of urban development planning at the local level and highlights a misunderstanding of market forces and variables that underpin housing and business growth. Further, this NPS-UD intends to inform how urban growth occurs, but in such a complex and varied process across the country, it does not address how balance will occur between urban areas that do not have infrastructure capacity and areas that do.
- Duplication. Councils produce many planning and other documents (in addition to the long-term plan) that provide future-focussed guidance to inform community planning and development. Information and data to guide development does not appear to be utilised for NPS purposes. Amending these documents to align with the NPS-UD will require time and cost, and may affect overall council planning. Further, required revisions may slow or even stop some planned housing and business development.
- Lack of clarity. Currently Government has many initiatives related to housing under development, including the infrastructure Commission, Kāinga Ora and Building Regulation Reform to name a few. Further, there are existing policy and regulatory settings in place, such as the Government Policy Statements (GPSs) on land transport and healthy homes. Understanding where this NPS (and its sister NPS on highly productive land) sit in the overall framework to deliver on the Urban Growth Agenda is unclear, but implementation for many plans rests with councils. Further, what the Government intends to do with reporting required by the NPS is unclear.
- Community character. The NPS-UD intends to encourage urban areas to build "up and out". In doing so, it has a focus on intensifying land use, which on the surface appears appropriate to meet the needs of a growing urban population. However, the position is at odds with the historic character found in many downtown areas. A main challenge to developing "up" in established suburbs has been the ability of existing residents to use the amenity value argument (town characteristics that influence and enhance people's appreciation of a particular area) as a means of preventing densification of city suburbs. The NPS-UD does not provide a means of resolving this, but it does create an expectation that this development will occur, potentially setting councils up to fail.

## Key recommendations

As is noted in our response to the following posed questions, LGNZ has several recommendations to improve upon the draft National Policy Statement-Urban Development. In our review, we believe there are four priority issues and associated recommendations.

1. The NPS-UD represents another unfunded mandate on local councils to deliver information to Government in a time and format that benefits benchmarking and dashboard monitoring at a central government level, but does not easily integrate into existing local planning systems.

**Recommendations:** Provide appropriate funding to councils to complete the initial analysis required under the NPS-UD, and review anticipated ongoing operational costs. Please reference LGNZ's June 2019 analysis of the National Policy Statement – Urban Development Capacity<sup>1</sup> summarising time and cost impacts on 23 of the 37 councils.

Alternatively, Government could direct the Infrastructure Commission to implement the NPS-UD. This activity appears uniquely suited to the Commission as its main function is to “co-ordinate, develop, and promote an approach to infrastructure that encourages infrastructure, and services that result from the infrastructure, that improve the well-being of New Zealanders”.

2. Issuing draft NPSs on urban development and high productivity land places councils between advocates for and against urban growth in their communities more than ever before. There is strong potential that, as neither document provides clear, explicit guidance on the value of land, stakeholders will use one NPS or the other to argue their position. The result may cause increased council caution, slowing growth and increased legal costs.

**Recommendations:** Implement only one NPS at time, and in timely fashion, to test and understand potential outputs and outcomes with communities. Further, slowing release appears prudent provided pending creation of the GPS for housing, the urban development agency, the establishment of the Infrastructure Commission, and the reform of the Resource Management Act. Both NPS documents should also include a mandatory review after a specified review to assess their performance, and whether they remain fit for purpose.

3. The NPS-UD, as currently planned, intends to run parallel with and inform council long-term plans. This adds an unnecessary layer of complexity to planning, burdens existing operations, stretches human and financial resources, and creates a level of fatigue by the council, staff and the public in engagement on future planning issues. For example, councils already meet the requirement of at least 18 Acts, including the Local Government Act 2002, Building Act 2004, Forest and Rural Fires Act 1977, and Land Transport Management Act 2003.

**Recommendation:** Align the completion of the NPS-UD with existing council long-term planning processes for affected councils, as opposed to establishing it as a separate reporting function.

4. The economic reporting. Councils with “major urban centres” are intended to complete Housing and Business Development Capacity Assessments (HPAs) to evidence their future development strategies (FDSs). The current approach allows for greater flexibility in development and monitoring than that utilised for the NPS-UDC. However, key issues of infrastructure provision, spatial planning and funding and financing are not guaranteed through modelling and reporting. The Government must acknowledge that infrastructure funding and finance is a key constraint that only it can address provided existing debt limitations of some urban councils.

**Recommendation:** Simplify economic indicators to inform planning, and embed communication trigger points whereby local and central government convene to discuss solutions to ensure planned and sustainable growth objectives are not limited by legislative and/or funding and financing barriers. LGNZ recommends a focus on mid-term reporting as short and long-term reports provide little to no value to council planning.

<sup>1</sup> [https://www.lgnz.co.nz/assets/Uploads/a77866cfa5/NPS\\_UDC-July-2019.pdf](https://www.lgnz.co.nz/assets/Uploads/a77866cfa5/NPS_UDC-July-2019.pdf)

## Introduction

Thank you for the opportunity to submit on the discussion document for the National Policy Statement – Urban Development (NPS-UD).

In advance of responding to questions, LGNZ has communicated with several councils and associated groups to formulate its submission. Though positioning on each topic may be broad and disparate across the sector, LGNZ has attempted to find some measure of “middle-ground” for each subject.

The NPS-UD intends to install “national standards” to local council planning for land development. It is fair to say LGNZ has hinged its responses with a “localist” view. Central to the localist view is the belief that where local decision-making and incentives align, positive outcomes result. In the last 30 years of New Zealand's urban history, it is clear that this alignment has not existed. As many of the Productivity Commissions research reports show, councils carry the costs of growth while central government reaps the direct benefits, predominantly in the form of taxation. LGNZ holds that the primary remedy to the lack of development in our urban areas is to allow councils to share in the direct benefits of growth, be this through grants, a share of tax revenues, or other means. We acknowledge that this is outside the scope of the current NPS-UD process, but unless addressed, no amount of national guidance will meaningfully change the status quo.

The NPS-UD recognises that local economies, communities and culture varies widely around the country. LGNZ's position in approaching national standards is to argue for appropriate policy settings and implementation measures that enable consistency where there are strong benefits from doing so, but remain sufficiently flexible to allow for local differentiation and variations. LGNZ is strictly opposed to further “one-size-fits-all” policymaking.

Across all responses, we firmly believe devolution is needed in New Zealand. As ensuring national outcomes is a responsibility of central government, it must recognise that homogeneity of outcomes is seldom desirable, as different cities have different attributes, economic characteristics, and natural and human capital. To enable this to be put to work most effectively for the national benefit of the country, cities should and must be able to pursue different development paths.

LGNZ is also opposed to central government shifting costs onto councils for little local benefit. Transferring responsibility to local councils without a funding stream has been a reoccurring activity, and local costs of implementation are rarely, if ever, reflected in Regulatory Impact Statements or any other supporting document. As such, LGNZ is taking a forthright approach in responding to the following questions and in the submission.

Also, LGNZ notes two general observations; one on the general method to urban development and the other on language. Regarding the context, we note that Government appears to approach urban development as if it can be directed and managed from a snapshot in time. It cannot be directed, only guided with signals and regulatory settings. Further, guidance cannot be used from a static position, requiring active Government engagement to allow nimble responses. In short, assisting the management of growth from an information dashboard in Wellington holds no value for councils, has little credibility, and in our view will not work as the Government intends.

If the government wants to send strong signals for the type and location of growth needed, it will not be achieved through mandates. LGNZ notes throughout the discussion document that government may require councils to include or exclude provisions in their planning documents. Language encouraging action and substantiated decisions creating vision will be most effective. As stated, most councils appreciate national guidance, but national mandates may result in “checking the box” responses. Importantly, a “future development dashboard” will achieve little if it does not address the real obstacles to enabling development, namely a restrictive planning regime, misallocation of building risk onto councils, and inability to open land for development due to poor infrastructure funding and financing tools. In LGNZ's view, were these issues to be addressed, there would be no need for an NPS-UD.

## Questions

### 1. Do you support a National Policy Statement on Urban Development that aims to deliver quality urban environments and make room for growth? Why/Why not?

Provided Government consider LGNZ's summary position and implements its recommendations, LGNZ can support the NPS-UD. Generally, LGNZ views the NPS-UD as an unfunded mandate and Government should consider its implementation through the planned Infrastructure Commission or compensate councils for their time and resources to complete planning that has national benefit.

Further, many councils perform land planning and intend for growth through their democratic processes, planning documents and public reporting. The additional burden of another reporting mechanism, just before or during long-term planning, adds a layer of cost and time. It is recommended that the NPS-UD be performed with the long-term planning process (particularly as many councils begin their process 18 months prior to completion).

### 2. Do you support the approach of targeting the most directive policies to our largest and fastest growing urban environments? Why/why not?

The latest information from Stats NZ reflects that 80 per cent of New Zealand's population lives within the five largest territorial authorities. Five of the six councils referenced in the NPS-UD are those listed as largest (Queenstown is ranked 28<sup>th</sup> in size). LGNZ believes that, if targeting the most directive policies are to take place, those identified by the NPS-UD have the capability or the ability to acquire resources to accommodate requirements of delivering Housing and Business Development Capacity Assessments (HBAs). Again, it should be noted that just because councils have larger ratepayer bases is not a justification to pass on the cost of this work when national benefit is also an intended outcome.

### 3. Do you support the proposed changes to future development strategies (FDSs) overall? If not, what would you suggest doing differently?

We support the refinement to the proposed FDSs, and clarity on intended outcomes. However, LGNZ believes that the purpose of LTPs, district and other plans already provides a significant level of fidelity to plan for future growth and development. Councils already perform levels of strategic planning, referenced in regional policy statements, regional and district plans, mode plans, and activity management plans, among others. Utilising another model, rather than an approved model, adds an element of confusion and perhaps a disjointed basis by which to plan. Further, noted in our recommendations, embedding this process in with long-term planning will reduce duplication as well as council, staff and public fatigue on issues addressing future land planning and economic growth.

### 4. Do you support the proposed approach of the NPS-UD providing national level direction about the features of a quality urban environment? Why/why not?

The NPS-UD leaves the term "quality" open to interpretation by each council, allowing flexibility in definition and applicability for each context. Though LGNZ broadly supports an approach that allows for flexibility, it has received comment from many councils that clarity or definition of "quality" would be beneficial. Further, it has been noted that there are non-statutory tools available in setting a national framework defining what this means, including the mandated "7 Cs of the New Zealand Urban Design Protocol" (Context, Character, Choice, Connections, Creativity, Custodianship and Collaboration).

As a matter of principle, LGNZ strongly resists any attempt to allow the relevant minister and central government officials determine what "quality" is. A case study would be the Christchurch master plan, which was imposed on the city council in the wake of the Canterbury Earthquakes. We would note it has yet to be fully implemented,

and is proving economically difficult to stand up on its own. The top-down process and incomplete output shows the folly of letting central government ride rough shod over local community preference.

It is worth re-stating that this master plan was the creation of central government, which over-wrote Christchurch City Council's plan, which was developed with the input of tens of thousands of Cantabrians.

### 5. Do you support the inclusion of proposals to clarify that amenity values are diverse and change over time? Why/why not?

LGNZ generally supports the view that amenity values are diverse and change over time, but cautions that each environment is different and creating a vision and taking people on a journey to realise improved outcomes can be difficult. LGNZ has reservation that reliance on one model of economic analysis, engagement and reporting will achieve comparable outcomes across the country. Different councils have varying levels of interest and capability and each council will likely have signature outcomes. A national picture may not be derived from all or even the identified territorial authorities' urban centres researching, engaging and reporting in a similar way. With reference to the point raised about "quality" urban environments above, LGNZ is opposed to central government determining what amenity value is in any form. This is for communities to do. However, we support central government's efforts to provide frameworks that will facilitate local discussions about changing amenity values, and how this results in development change over time.

### 6. Do you support the addition of direction to provide development capacity that is both feasible and likely to be taken up? Will this result in development opportunities that more accurately reflect demand? Why/why not?

The response to this question demands more detail than generally available to LGNZ. However, LGNZ believes that planning documents should reflect a clear direction and measurable outcomes, and we highlight that there are many issues beyond council control. Variables including immigration policy, construction costs and qualified labour can have a significant impact on planned outcomes. As such, if supported, Government should plan for greater engagement and input from councils on issues affecting infrastructure and land planning outcomes to create a clear picture of national and local influences that may impact on local growth and development. As noted earlier in this submission, if central government addressed the issues around the restrictive planning regime, misallocation of building risk onto councils, and inability to open land for development due to poor infrastructure funding and financing tools, then the need to "provide development capacity that is feasible and likely" would likely be eliminated.

### 7. Do you support proposals requiring objectives, policies, rules, and assessment criteria to enable the development anticipated by the zone description? Why/why not?

LGNZ cautions against being too prescriptive in outlining what a description should include, as markets and appetite for investment as well as technology, demographic profiles change constantly, and bureaucratic processes to achieve outcomes generally follow rather than lead, and is updated rarely and at long intervals to reflect these changes. Further, local change is incremental, often occurring at the parcel level.

LGNZ generally supports the use of tools and resources that ensure the vision of development outcomes meet planning objectives. We recognise land planning and development guidelines assist in creating a framework by which councils can coordinate with those working to build in communities. LGNZ would caution central government on attempting to fix regulatory constrained land markets with more regulation.

## 8. Do you support policies to enable intensification in the locations where its benefits can best be achieved? Why/why not?

LGNZ does not support the NPS-UD mandating local councils intensify housing. First, the most appropriate place to make decisions that directly affect the local environment is at the local level; this is the core principle of LGNZ's Localism Programme.

The Programme is explicit in stating "instead of relying on central government to decide what is good for our communities it is time to empower councils and communities themselves to make such decisions".

Secondly, and perhaps more importantly, it is market forces that ultimately determine whether brown field sites are intensified. Providing a designation for development is unlikely to speed development particularly where the reason for no development occurring is due to other causes. If, for instance, lengthy and risky RMA processes result in the perceived costs and/or risks of the development being greater than the deemed rewards, then that development will not proceed regardless of policy designations.

The NPS-UD takes a very general approach in addressing the rationale for this position. It states that "a lack of higher-density housing fuels higher prices across entire cities". We do not necessarily believe that this holds for every community nor that a simplified approach to a complex issue of investment and building is necessarily appropriate. Nor does this assumption stand up to casual inquiry. In the developed world, some of the most dense cities are the least affordable (Los Angeles, San Francisco, New York), whereas the sprawled cities in the South Eastern United States have seen house prices remain affordable over many decades, and flat in real price terms.

This is partly because higher density housing is a complex process, which requires confidence by lending institutions for return on investment and has flow on effects for supporting infrastructure such as three waters and schools. Approaching the issue from the standpoint that local owners wish to protect their home investments (as is outlined) is only one of many variables. Councils are best equipped to balance these issues without central government mandate.

## 9. Do you support inclusion of a policy providing for plan changes for out-of-sequence greenfield development and/or greenfield development in locations not currently identified for development?

Recognising leapfrogging as a means of tackling land banking, LGNZ would not support this form of development if it is enabled in an unrestrained way. We would lend tentative support to this idea if it were coupled with a robust spatial planning regime that would identify and protect transport and infrastructure corridors over a minimum 30-year period, and a funding mechanism would need to be developed to acquire this land when it is due for development (value capture). None of this necessary policy infrastructure is in place to have confidence that leapfrogging will result in more uncontrolled sprawl, and wasted and misdirected infrastructure investment.

## 10. Do you support limiting the ability for local authorities in major urban centres to regulate the number of car parks required for development? Why/why not?

No. LGNZ's main concern is that removing car-parking requirements may not necessarily result in the outcome of a quality urban development the NPS-UD seeks. Intensification, along with the corresponding removal of car parking regulations, may in fact lead to perverse transport and amenity outcomes. Removing car-parking requirements may not equate to increased public transport use, particularly in major urban centres that do not have particularly good public transport networks, or the funding for this.

Further, removing requirements takes away a negotiating tool that councils have at their disposal in creating development agreements. There are "packages" that go with any development and sacrificing a variable that may

or may not affect the physical design or services provided in a community must be made at the local level. National direction will not result in continuity of new development across all urban areas.

### 11. Do you think that central government should consider more directive intervention in local authority plans?

No. It is LGNZ's view that national standards only apply in design where the public's health and safety may be at risk. The NPS-UD noted studies where design guidelines may hamper affordability and density objectives. Urban councils are aware of these studies as well and validate or invalidate applicability at the local level.

They often address barriers and incentivise to achieve the kind of growth needed through controls and allowances, as noted in the NPS-UD.

Direct intrusion into local development to obtain planned outcomes may actually result in unintended consequences, for which central government may or may not have to address, but councils will inevitably be responsible to manage.

### 12. Do you support requirements for all urban environments to assess demand and supply of development capacity, and monitor a range of market indicators? Why/why not?

Presently, councils do assess demand and supply of development capacity, and they do this in conjunction with other existing and potentially needed infrastructure assets that underpin growth, including water supply and roading investment. Many use dynamic modelling rather than the Government's "locked" economic model inappropriately planned for utilisation. As such, we do support continued voluntary use of modelling, but not with the planned economic model proposed and we do support modelling.

### 13. Do you support inclusion of policies to improve how local government works with iwi, hapū and whānau to reflect their values and interests in urban planning?

LGNZ supports strong engagement with iwi and hapū in all areas of community planning and development, and agrees with points noted in the discussion document's rationale. Further, LGNZ recognises that there are many iwi, hapū and whānau in New Zealand, and that each has their own process and associated timing for engagement.

As such, we note that there are some specific consultation references to iwi and hapū in a number of instances throughout the NPS-UD, which have the potential of increasing the burden on RMA's statutory consultation obligations far above and beyond those previously required (eg the Schedule 1 requirement to consult with tāngata whenua via iwi authorities). This is likely to produce a tragedy of the anti-commons, which will stifle, not enable, development because it requires too many parties to reach a consensus view before development can proceed. This is particularly so where central government creates opportunities for post-settlement iwi to engage in local planning decisions (such as through mana whakahono ā rohe arrangements), but does not provide sufficient resources, or does so inconsistently, to enable iwi to fulsomely participate in these forums.

### 14. Do you support amendments to existing NPS-UDC 2016 policies to include working with providers of development and other infrastructure, and local authorities cooperating to work with iwi/hapū? Why/why not?

Our interpretation is that the objective is to ensure local authority agreement on methods for planning, language/dialogue and proposed timing in order to move in step with iwi and hapū in land development. LGNZ supports coordinated planning and integrated implementation of plans. LGNZ agrees that integrated planning across jurisdictional boundaries may be appropriate but cautions against being too prescriptive in approach as the variety of engagement and priorities around the country toward infrastructure vary widely.

However, as noted in question 13, it is highly recommended not to compound the process of engagement on planning processes, potentially setting expectations beyond what may be delivered, as well as recognise that many iwi and hapū have their own unique way of engagement and constraints on available people and resources to engage. Further, multiple councils engaging on infrastructure plans can be difficult, and including iwi and hapū with potentially new participants and issues may require additional time and engagement for planning, impacting on overall schedules to deliver on the NPS-UD.

### 15. What impact will the proposed timing for implementation of policies have?

LGNZ cannot speak for any specific council on meeting the noted timeframes, and can only speak generally toward implementation of the NPS standards. LGNZ encourages Government to consider close coordination on timing of implementation to align with the 2024 long-term plans. Ensuring councils can meet the objectives is paramount.

As written, the NPS-UD intends to inform the council long-term planning (although LGNZ recommends integration into the LTP process and plans).

If Government remains steadfast in this position, it should be aware that councils begin their LTP processes 12-18 months in advance of delivery, hence measures to complete the NPS-UD will be performed in tandem with (but not coordinated into) LTP processes. Further, revision of regional, district and other plans should likely be coordinated at the same time, or shortly thereafter, adding additional cost, time and burden to councils.

Tying back to key recommendation #1, the NPS-UD is an unfunded mandate and unnecessary pressure to deliver plans (not outcomes) will be compounded by a schedule condensed beyond need.

### 16. What kind of guidance or support do you think would help with the successful implementation of the proposed NPS-UD?

LGNZ refers to its four recommendations as well as its review of the NPS-UDC noted in our “Key Recommendations” found [here](#).

Alternatively, of value would be a dedicated resource team that supports some of the methodological approaches proposed in the NPS HBA assessment, a clear and regularly updated dashboard on the website of indicators, and targeted guidance on what the Government deems to be a quality urban environment. Further, local councils would benefit from evidence that Government is aware of and can demonstrate in its engagement and offer of support to ensure alignment with other national direction under the RMA.

### 17. Do you think there are potential areas of tension or confusion between any of these proposals and other national direction? If so, please identify these areas and include any suggestions you have for addressing these issues.

LGNZ refers to key recommendation #3 as a general position.

Additionally, we note potential conflict between subjects addressed in questions 8 and 9. Encouraging intensification “up and out” against a backdrop of a possible “leapfrog” to greenfield areas does not provide a clear vision for growth.

Further, it is noted with some irony that the purpose of the NPS-UD is to integrate planning, more effectively incorporate stakeholders and owners and create empirical evidence to underpin land planning. However, LGNZ is not entirely clear on vision, operations and activities to meet intended outcomes of the Urban Development Agenda. This, of course, is due in part to Government still working on creating a Kāinga Ora, Infrastructure Commission, revising building regulations and a host of other initiatives.

Planned organisational development must integrate into existing standards and structures. To highlight one case, councils must align objectives of the planned NPS-UD with LTP requirements and with existing Audit NZ direction

and standards. For example, the NPS on Urban Development Capacity and now Urban Development, requires that councils add 15 to 20 per cent buffers on top of growth projections to provide sufficient housing and infrastructure capacity. However, LTPs must be based on a financial strategy that is most realistic (ie the amount of rates from the growth projected without the buffers).

In seeking advice, one council received the following advice from Audit NZ: “there would be issues with using inconsistent assumptions across the plan, because you need to plan on the best information available. The Council, with its partners as needed, will need to reach its own view on what that is and to evidence its choice in the information supporting the LTP.”

It appears, with emerging and existing Government organisations, some critical issues to operationalise planned instruments still require refinement.

**18. Do you think a national planning standard is needed to support the consistent implementation of proposals in this document? If so, please state which specific provisions you think could be delivered effectively using a national planning standard.**

LGNZ believes a national direction implemented through local initiative has some merit, but only if tools and resources are useful to both local councils and central government and if the costs are appropriately allocated and shared.

Specific provisions that could be delivered using a national system may be a Future Development Strategy, but with a fit-for-purpose economic model.

## Conclusion

It is fair to say that a failure to plan is a plan to fail. The caveat to the statement is to ensure not to conflate a plan with an output or outcome. Market forces ultimately direct where and how investment is made, and council policy and regulation provide guidelines for investment, establishing business confidence and some measure of vision for community and economic development.

If Government intend to reach and sustain outcomes to achieve increased the right kind and quality housing at the right place at the right time, as well as provide confidence and land for business investment, it cannot be directed from a central location looking at history figures of production. It must be a joint investment, unsegregated in approach and targeted.

Again, LGNZ has reviewed the previous NPS-UDC, and has published its analysis. Recommendations incorporated into our reporting were a “soft version” of what staff received from council leaders in review and in proposed edit; to put it lightly we softened our version for Government consumption. Our governments must work more closely to develop plans that can be delivered for everyone’s benefit. Whether this is an NPS or other mechanism, it is vital that joint investment is made, that tools and resources are useful to both councils and central government agencies and that reporting doesn’t have a focus on reporting as much as on forecasting.

Thank you for the opportunity to comment on this discussion document.