



**New Zealand Telecommunications Forum (TCF) Submission to
Ministry for the Environment:
National Policy Statement on Urban Development Capacity**

Executive Summary

The New Zealand Telecommunications Forum (TCF) appreciates the opportunity to provide feedback on the proposed National Policy Statement on Urban Development Capacity (NPSUDC). The TCF generally supports the Proposed National Policy Statement (NPS) on Urban Development Capacity. This is the first national policy to give recognition of the importance of cities and metropolitan areas. While the focus of this policy is limited to providing capacity for residential and business development, it potentially provides the opportunity for far greater clarity and direction across urban New Zealand. The telecommunications industry sees that significant benefits can arise from improved nationally consistent modelling and information relating to urban growth, which highlight the need for increased telecommunications footprint and capacity.

The TCF encourages the use of a national framework for urban planning, supported by instruments such as National Policy Statements (NPS) and National Environmental Standards (NES) as means to provide specific solutions for particular issues. A NPS that appropriately recognises and facilitates investment in infrastructure, while responding to the demands and complexities facing urban areas, will in turn encourage further investment by the telecommunications industry. This will assist the industry deliver to the Government's goal of 95 percent of New Zealanders having access to broadband with speeds greater than 50 Mbps by 2025, an objective which will support positive social, economic, environmental and cultural outcomes for New Zealand.

The TCF is the telecommunications sector's industry body; its members represent 95% of the sector, which plays a vital role in bringing together the telecommunications industry and key stakeholders to resolve regulatory, technical and policy issues for the benefit of the sector and consumers. The TCF is in a unique position to provide feedback as its members' networks are nationwide and therefore have a vested interest in ensuring that regional and district plans provide adequate telecommunication infrastructure development capacity for business and housing.

This submission offers general feedback consistent with the TCF view that:

- Generally supports the NPSUDC with some alterations;
- Telecommunications should be recognised in the definition of infrastructure;
- Providers should have access to the NZ Housing Assessment and Business Land Assessment model that each council uses.

Telecommunications Infrastructure - An Enabler For Urban Development

Meeting consumer and business demands for new and improved digital services means constant investment and innovation in telecommunications infrastructure. This investment can be assisted through strong government support with nationwide policies. In 2014, total telecommunications investment reached \$1.7 billion. This level of investment, compared to revenue, put New Zealand near the top of the OECD in 2013. This investment has contributed to the Ultra-fast Broadband roll-out, as well as a rapid deployment of three competing 4G mobile networks - with the deployment of 5G mobile networks already on the horizon. As a result of this investment in infrastructure, New Zealand has seen the fastest uptake of fibre in the developed world¹.

Fixed and mobile telecommunications networks are essential national infrastructure that underpin urban development by ensuring New Zealanders are digitally connected to each other and the world. The economic and social benefits of this connectivity have been widely acknowledged. The applications and services that these networks enable are rapidly becoming indispensable for businesses and residential users who expect high speed and reliability wherever they are and whatever they are doing. The majority of businesses in New Zealand rely on telecommunications services - fixed and mobile, voice and data - for at least some part of their operation.

New Zealanders have benefited from this investment in terms of the technological change and the underlying opportunities for productivity gains. Rapid growth in demand for data services, driven in part by services such as video streaming, mean that further investment in telecommunications infrastructure will be necessary as the industry responds to this burgeoning demand. Further investment in multiple networks is also necessary to provide for an increasing demand for higher resiliency of networks and consumer choice. It will be essential that further investment in telecommunications infrastructure can be made efficiently and with as much certainty as possible.

Urban development

Urban planning is significantly more complex and wider than the NPSUDC focus on residential and business development capacity. Whilst there is an understandable focus on residential and business development capacity in high and medium growth areas in the NPSUDC (such as Auckland, Hamilton, Tauranga, Christchurch and Queenstown), there is an opportunity for the NPSUDC to require all councils to share the same valuable information and evidence of development trends, and the preparation of regular (quarterly for example)

¹ TCF 'Telecommunications – Enabling New Zealand's Future' prospectus 2016

capacity reports. The telecommunications industry is actively involved in local government planning processes, including district plan reviews and a wider range of infrastructure forums across New Zealand. The information gained through capacity reports required under the NPSUDC would provide key information to support the investment necessary to support communities.

Definitions

Development Capacity:

In the proposed NPSUDC, development capacity is defined as the capacity of land for urban development, taking into account:

- zoning and all of the policies and rules that apply to it; and
- infrastructure that exists or is likely to exist, that supports the development of the land.

Currently, this definition of development capacity in the proposed NPSUDC is not the same as in the Resource Legislation Amendment Bill 2015(RLAB). The proposed section 30(5)

- 5) *In this section and section 31, development capacity, in relation to residential and business land, means the capacity of the land for development, taking into account the following factors:*
- (a) the zoning of the land; and*
 - (b) the provision of adequate infrastructure, existing or likely to exist, to support the development of the land, having regard to—*
 - (i) the relevant proposed and operative policy statements and plans for the region; and*
 - (ii) the relevant proposed and operative plans for the district; and*
 - (iii) any relevant management plans and strategies prepared under other Acts; and*
 - (c) the rules and methods in the operative plans that govern the capacity of the land for development; and*
 - (d) other constraints on the development of the land, including natural and physical constraints.*

It is acknowledged that two definitions will be aligned once public consultation on the proposed NPSUDC is completed and the Select Committee of the RLAB reports back to parliament. The TCF supports aligning the two definitions as applying a different definition under the NPSUDC is considered to be confusing given that the NPSUDC is intended to complement the RLAB. Further, the proposed NPSUDC definition does not include references to the matters identified in (d) of the RLAB definition, being constraints on the development of the land. This includes existing telecommunications infrastructure, the development within close proximity of which can not only give rise to potential reverse

sensitivity effects but also requires existing infrastructure to be relocated for example if new residential development is built close to an existing mobile cell site triggering a non-compliance with radiofrequency exposure limits or alternatively significantly blocking and reducing the effective coverage from a particular site.

Infrastructure Provider:

The TCF strongly contends that telecommunications should be included into the definition of infrastructure provider in the proposed NPSUDC. Within existing planning statutes infrastructure is inclusive of other essential infrastructure to urban environments such as telecommunications. Within every district plan is recognition of infrastructure wider than just roading and the 3 waters (drinking, stormwater and wastewater). In the interim guidance of the Auckland Unitary Plan Independent Hearing Panel commented:

1. There should be a section in the RPS for infrastructure. A crucial element of any development is the infrastructure to support it, both to enable people and communities to use the development effectively and efficiently for their well-being and to assist in avoiding, remedying or mitigating the adverse effects of development.
2. Infrastructure should be defined by using the RMA definition of that term, supplemented to include some related facilities. The definition could be:

Infrastructure has the same meaning as in section 2 RMA and also means:

- a. Bulk storage for wholesale or distribution purposes of natural or manufactured gas over 15 tonnes, or petroleum over 1 million litres;
- b. Storage and treatment facilities for a water supply distribution system
- c. Storage, treatment and discharge facilities for a drainage or sewerage system;
- d. Class 1 solid waste landfills;
- e. National defence facilities;
- f. Facilities for air quality and meteorological services.

Under section 2 RMA “infrastructure” is defined as:

infrastructure, in section 30, means—

- (a) pipelines that distribute or transmit natural or manufactured gas, petroleum, biofuel, or geothermal energy;
- (b) a network for the purpose of telecommunication as defined in section 5 of the Telecommunications Act 2001;
- (c) a network for the purpose of radiocommunication as defined in section 2(1) of the Radiocommunications Act 1989;
- (d) facilities for the generation of electricity, lines used or intended to be used to convey electricity, and support structures for lines used or intended to be used to convey electricity, excluding facilities, lines, and support structures if a person—
 - (i) uses them in connection with the generation of electricity for the person’s use; and
 - (ii) does not use them to generate any electricity for supply to any other person;
- (e) a water supply distribution system, including a system for irrigation;
- (f) a drainage or sewerage system;
- (g) structures for transport on land by cycleways, rail, roads, walkways, or any other means;
- (h) facilities for the loading or unloading of cargo or passengers transported on land by any means;
- (i) an airport as defined in section 2 of the Airport Authorities Act 1966;
- (j) a navigation installation as defined in section 2 of the Civil Aviation Act 1990;
- (k) facilities for the loading or unloading of cargo or passengers carried by sea, including a port related commercial undertaking as defined in section 2(1) of the Port Companies Act 1988;
- (l) anything described as a network utility operation in regulations made for the purposes of the definition of network utility operator in section 166

Importantly under the Housing Accords and Special Housing Areas Act 2013 (referencing s166(b)i RMA) telecommunications is recognised as essential to determining if proposed residential land is suitable for development:

network utility operator means a person who—

(b) operates or proposes to operate a network for the purpose of—

(i) telecommunication as defined in section 5 of the Telecommunications Act 2001;

In determining capacity the Special Housing Accord requires:

- *An authorised agency must not grant a resource consent that relates to a qualifying development unless it is satisfied that sufficient and appropriate infrastructure will be provided to support the qualifying development.*
- *For the purposes of subsection (2), in order to be satisfied that sufficient and appropriate infrastructure will be provided to support the qualifying development, the matters that the authorised agency must take into account, without limitation, are—*
 - (a) compatibility of infrastructure proposed as part of the qualifying development with existing infrastructure; and*
 - (b) compliance of the proposed infrastructure with relevant standards for infrastructure published by relevant local authorities and infrastructure companies; and*
 - (c) the capacity for the infrastructure proposed as part of the qualifying development and any existing infrastructure to support that development.*

The lack of reference to telecommunications operators as “infrastructure providers” under the proposed NPSUDC may create the impression that councils do not have to recognise telecommunications infrastructure in the objective and policy framework of plans nor incorporate relevant rules/performance standards for subdivisions (district plan) with respect to telecommunication reticulation. This will have flow on effects to consent conditions and ultimately the connectivity potential of new development. Being recognised as an infrastructure provider would allow us to work with councils on the level of information required to support decision making. As previously mentioned the Auckland Unitary Plan Independent Hearing Panel recognised all infrastructure as being critical to any development to support people and communities to use the development effectively and efficiently for their well-being.

The NPSUDC will become a key document that will influence district plan policy and consequently subdivision and development rules. We consider that the inclusion of telecommunication (and electricity) operators in the definition of “Infrastructure Provider” is essential to provide the platform for appropriate provisions to be incorporated into district plans. If telecommunications is omitted from this NPSUDC we hold significant concerns that councils and developers will conclude that our infrastructure is not essential

and does not need to be provided as part of the development area. We consider that telecommunication is an essential infrastructure in any urban environment and should be recognised.

Another benefit of recognition is that it will encourage a whole of infrastructure approach by council when developing policy documents, statutory and non-statutory guidelines and codes, and involve telecommunications providers when they are working with developers to determine how new areas will be served. Telecommunication plays a critical role in achieving the intent of PA3 i.e. the ability of people and communities and future generation to provide for their social, economic and cultural wellbeing. Therefore we recognise our role and support the co-ordinated evidence and decision making approach promoted in PC1 to PC3 subject to further discussion on how this can be achieved.

Development Planning

Engagement with telecommunication operators at the early planning stages of development is essential to ensure future generations of property owners can obtain the telecommunication services they reasonable expect. It is also critical for the deployment of affordable infrastructure solutions that take into account the telecommunications market, technological developments, or the ongoing requirements for managing telecommunications infrastructure.

A key consideration for developments is recognising where existing infrastructure is in situ, as moving it is often extremely expensive and if there is no alternative this needs to be factored into the developer's costs. The location of telecommunications infrastructure does not necessarily influence development but sufficient capacity will support growth by facilitating connectivity (with associated economic and social benefits). For urban areas – telecommunication (and electricity) reticulation should be implicit in development plans.

The location of development relative to other supporting and enabling telecommunications infrastructure can significantly influence the cost of providing telecommunications services. It is important that these costs are taken into account at the early stages of development and not left to be borne by individual property owners. Where reticulation is deferred there are additional costs and disturbances where ducting is required to be laid in newly formed road reserve/ footpaths.

Housing Assessment and Business Land Assessment model

Each council in NZ is required to have a Housing Assessment and Business Land Assessment model under PB1 to PB5. Potentially without better national guidance this will result in 65 different models. There is also concern that the assessments will cost councils and their infrastructure providers a lot to meet the requirements set out in their Housing Assessment and Business Land Assessment model by end of 2018 for the medium and high growth areas. We are of the opinion that a coordinated approach between central and local government in the model and data collection for the assessments would be represent significant benefits for all parties. Infrastructure providers should be involved and consulted during the development of the national guidance. As included with the existing National Environmental Standards there could be a user guide to explain implementation and

interpretation, and this form of technical guidance would assist all parties in the preparation and implementation of the residential and business land assessments. Access to information on growth and when it is projected to occur would be extremely useful to the industry to assist with asset planning and capital spend budgets.

We recognise that a consequence of including private infrastructure in the assessments for example as set out under OC1 – coordination of infrastructure or PB1 providing information about capacity of infrastructure will require a discussion around the access to and use of potentially commercially sensitive information. However, this is not considered to be an obstacle that negates incorporating telecommunications into the definition of infrastructure provider.

Conclusion

Telecommunications infrastructure, both fixed and mobile, is provided nationally by fixed line and mobile network operators. Consequently, considerable local variations to urban planning processes and technical requirements are inefficient and deter investment. There is a need for a whole of infrastructure approach, wider than roading and the three waters (drinking, stormwater and wastewater).

Telecommunications operators provide essential services that support and enable the social, economic and cultural wellbeing of our people and communities and future generations as growth occurs. If telecommunications operators are excluded from processes established by the NPSUDC there is a risk that this will further reinforce council opinion that private infrastructure is not as relevant as council infrastructure (and consequently is not afforded priority).

As the NPSUDC will influence the future planning policy frameworks and consequently resource consenting decisions, it is appropriate that all infrastructure is recognised and provided for in the NPSUDC. This will provide the necessary policy platform and direction to Territorial Authorities to ensure future proof, yet affordable infrastructure solutions are deployed through their regulatory procedures for land use and development.

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