

BUILDING SUSTAINABLE URBAN COMMUNITIES

**SUBMISSION TO THE SUSTAINABLE URBAN DEVELOPMENT UNIT, DEPARTMENT OF INTERNAL AFFAIRS
28 NOVEMBER 2008**

BACKGROUND TO IPENZ

The Institution of Professional Engineers New Zealand (IPENZ) is the lead national professional body representing the engineering profession in New Zealand. It has approximately 10,000 Members, including a cross-section from engineering students to practicing engineers to senior Members in positions of responsibility in business. IPENZ is non-aligned and seeks to contribute to the community in matters of national interest giving a learned view on important issues, independent of any commercial interest.

EXECUTIVE SUMMARY

IPENZ is a strong supporter of good urban design. We note that urban design is a complex topic and there are many factors that can affect the quality of urban design, including collaboration, a holistic long-term view and the division of responsibilities.

We strongly support increased collaboration in relation to sustainable urban design and we recommend that central government works more closely with regional and local government to ensure their policies are consistent and enabling.

We have concerns that due to the poor application of the Local Government Act provisions, councils will not use their ability to charge development contributions. We recommend that the Department of Internal Affairs actively promotes best practice to councils.

We note that central government policies can influence development and investment decisions and suggest that the effect of these policies needs to be considered in association with urban design.

IPENZ supports the development of forward-looking planning documents, such as regional development strategies. We also consider that planning at a regional level is appropriate as it allows for economies of scale and the ability for asset sharing. However, it is important not to limit competition within the region.

IPENZ recommends that the Local Government Act be amended so that the integration required in Auckland under the Local Government (Auckland) Amendment Act 2004 is required in all regions in New Zealand.

We note the suggestion that a value uplift levy be created. IPENZ does not support the introduction of this levy as we consider it would be difficult to administer and we have concerns as to how the level of the levy would be set and how the levy would be used.

We consider that the use of compulsory acquisition for land assembly is heavy handed and if this approach was taken then prescriptive legislative provisions would be required.

Finally, IPENZ would welcome the opportunity to work more directly with the Sustainable Urban Development Unit and we suggest that the Department of Internal Affairs consider establishing a working group on urban design with representatives from the engineering, architecture, and planning professions.

IPENZ POSITION ON URBAN DESIGN

IPENZ is a strong supporter of good urban design. IPENZ is a signatory to the New Zealand Urban Design Protocol. In September 2007 we produced *Practice Note on Urban Design* to provide our Members with guidance. The content of the document is primarily directed at engineers, designers and other professions involved in the urban design process. The practice note aims to encourage IPENZ Members to adopt the New Zealand Urban Design Protocol and to raise awareness of the values inherent in delivering an improved urban environment, both socially and functionally. A copy of this practice note is attached for your information.

This submission has been prepared based on the practice note, IPENZ's submission to the Ministry for the Environment on the "Scope of a proposed National Policy Statement on Urban Design" and on feedback from IPENZ Members.

GENERAL QUESTIONS

Answers to the general questions are included in our responses to the specific questions that follow.

SPECIFIC QUESTIONS

Barriers and implementation difficulties in sustainable urban development in New Zealand

1a What is slowing down, preventing, or reducing the quality of sustainable urban development?

Please give examples.

IPENZ notes that urban design is a complex topic and there are many factors that can affect the quality of urban design.

IPENZ considers that one of the most important factors that can influence urban development is collaboration. A successful urban area needs retail, commercial, industrial facilities in addition to transport, housing and community facilities. Each of these requirements is interdependent and an integrated approach to provision of these is required. It is therefore essential that all parties are involved in discussions regarding urban development. Key parties to involve are engineers, planners, architects, local government and interested parties from the community. Our practice note recommends that engineers "obtain the best possible information by consulting widely, and by working closely with territorial authorities, other professionals and the community." Only by hearing the diverse views and using a mix of expertise will all issues be considered to obtain an integrated and fully functional urban community.

IPENZ also believes that good sustainable urban development needs a holistic, long-term view. A holistic view is necessary to consider each of the components (for example, land use, transport, services, infrastructure, etc) of the urban development. The view also needs to be long term to ensure that the future needs of those living in the urban community are considered – it is easier to provide for services before the development is completed than to have to retrofit.

We also consider that the division of responsibilities in relation to urban developments are an important factor. As noted on page 9 of the discussion document, the limited co-

ordination of national, regional and local planning is an issue. We suggest that this may be due to the limited tools available (that is, the district plans).

Under the Resource Management Act, both local authorities and regional councils are responsible for “the control of any actual or potential effects of the use, development, or protection of land”.

Central government sets the national direction for development through legislation, including the Resource Management Act, the Local Government Act, the Building Act, and the Land Transport Management Act.

Sustainable urban design is thus complex, especially given this division of responsibilities and the framework within which it sits.

We note that on page 10 the discussion document suggests that funding is a barrier to urban development, yet IPENZ questions whether funding is actually a barrier. Both the Resource Management Act and the Local Government Act provide local government with the ability to charge new developments for the costs associated with the increased infrastructure. However, we note the inappropriate use of development contributions by North Shore City Council and other councils and are concerned that other councils will be discouraged from using development contributions.

Assuming that the provisions under the Resource Management Act and the Local Government Act and the relevant council policies are clear, the funding difficulty of “determining who should pay for urban development (including infrastructure and services) and how/when it should be paid for” should not be a barrier.

Page 11 of the discussion document, states that public resistance to urban intensification is seen as a barrier to sustainable urban development. In our report entitled *Transport - Engineering the Way Forward*, we questioned whether urban intensification is desirable due to the potential for urban sprawl. We continue to hold this position.

1b What can be done to deal with these barriers?

As noted above, IPENZ considers increased collaboration essential. This should take place as early as possible in the planning of an urban development.

Also, as noted above, we would support holistic urban developments plans that take a long-term view to ensure all present and future needs are planned.

In relation to the division of responsibilities, we recommend that central government work more closely with regional and local government when policies that affect urban developments are being developed or amended. This would ensure that the policies are consistent and enabling.

In relation to development contributions, we suggest that the Department of Internal Affairs actively promotes best practice to local government to ensure that development contributions are applied appropriately.

Strengthening existing tools and ways of working

2a What can be done within existing regulations and legislation to deal with these barriers? Please outline your ideas for:

- Better ways of working
- New non-regulatory tools
- Ways to use or change existing regulatory tools to make them more effective

As noted above, we have concerns that due to the poor application of the Local Government Act provisions, other councils will not use their ability to charge development

contributions. We suggest that guidance be provided to councils regarding the relevant sections of the Local Government Act and the Resource Management Act, and what their policies must say and do to avoid them being defective.

2b and 2c

IPENZ has no response to these questions.

Ideas, options and issues: The role of government in sustainable urban development

3a How can central and local government support sustainable urban development?

IPENZ believes that one of the first steps central and local government should take is to collaborate more closely to enable consistent policies and understanding of sustainable urban development.

Local and central government can support sustainable urban development by ensuring that the urban development has efficient and effective infrastructure. People living in the urban development need to have good transport, utilities, schools and other infrastructure to support them and encourage them to live in the urban areas.

We consider that the cost of travel is currently too low, which discourages urban development. The cost of travel is a driver that could be used to encourage sustainable urban development and we would support transport being charged appropriately to influence spatial form and transport mode use.

We think that the use of road and transport pricing is an under-utilised economic tool to achieve sustainable urban development. This is a different concept but has the same intention as the blunt instrument of urban growth limits.

We note that central government policies can influence development and investment decisions. For example, education policies relating to school zoning strongly influence where families live. The effect of these and other policies needs to be considered in association with urban design.

3b What role should the following players have in sustainable urban development projects?

- Local government
- Central government

We consider that local government has a significant role in sustainable urban development projects. These roles include:

- collaboration with other parties, such as developers, engineers, surveyors, planners and central government
- involvement in the planning of sustainable urban developments
- consultation with the local community and other affected parties
- provision of information to members of the public
- provision of infrastructure such as utilities and transport for those people living in the sustainable urban development
- consenting and other roles under the Resource Management Act and Local Government Act.

Similarly, central government should have a broad role in sustainable urban development projects. We consider that central government should have the following roles:

- development of the legal framework for New Zealand

- development of relevant national policies in collaboration with other parties, such as developers, engineers, surveyors, planners and local government
- provision of schools, transport, roads and other national infrastructure for those people living in the urban areas
- assistance to local government for infrastructure they have responsibility for providing
- provision of information to members of the public.

Ideas, options and issues: Improving co-ordination and integration

4a How can co-ordination of investment and integration of planning be improved?

IPENZ supports the development of forward-looking planning documents, such as regional development strategies. We consider that the preparation of these documents provides an excellent opportunity for a collaborative, inclusive discussion regarding the development within a region and an assessment of infrastructure needs and provision.

We also consider that planning at a regional level is appropriate. If the planning is done at a local authority level, it is possible that opportunities to link or connect with neighbouring cities or districts may be missed.

For example, consider a situation where area A is in district/city A and area B is in the neighbouring district/city B. Districts/cities A and B are both in the same region. In this situation, depending on the proximity and other conditions, it is possible that infrastructure and other services for areas A and B could be shared, which would provide economies of scale and could be included in the local authorities' triennial agreements. In addition, the local authority associated with district/city A may not be aware of plans to develop area B. If both areas A and B are developed, there is a chance that urban sprawl will develop, which is not the intended outcome of development.

Note that while a regional focus is desirable, it is important not to completely limit competition between commercial centres.

A further suggestion for co-ordination and integration, as suggested in our document entitled *Transport - Engineering the Way Forward*, is that the Local Government (Auckland) Amendment Act 2004 should apply to all regions in New Zealand. This mandates that all local authorities in the Auckland region integrate their land transport and land use provisions to ensure they are consistent with Auckland's Regional Growth Strategy. IPENZ would support the Local Government Act being amended so that this integration is required in all regions.

Ideas, options and issues: Funding

5a How could sustainable urban development be funded?

The majority of the funding roles presented on page 21 of the discussion document are legitimate roles for local government that they should be doing as a matter of course.

5b Who should fund infrastructure assets, services or amenities required in a sustainable urban development project?

We believe that infrastructure should be funded by local and central government. Central government should fund national infrastructure such as schools, roads and other facilities. Local government should fund infrastructure such as water networks, roads and transport networks. It is appropriate that local government provides funding for some of the infrastructure given that any positive impacts of the urban development (for example, increased economic activity) is likely to be localised in the area around the urban areas, thereby benefiting the local residents.

We note that in some circumstances local government will not have sufficient funds to support significant infrastructure and therefore central government may need to support local government by providing funding.

5c To partly or fully fund sustainable urban development, do you support a value uplift levy to capture “unearned” gain resulting from public actions to increase scope for development? Please explain your view.

IPENZ understands that a value uplift levy could be created from the increase in land value created when the scope or intensity of developed increases.

We consider that the creation and operation of a value uplift levy would be administratively difficult and we are concerned as to how the level of the levy would be set and how the levy would be used.

We note that under s326 of the Local Government Act, there is provision for the local authority to seek contributions from landowners. For example, where an existing road is widened, owners of land with a frontage on the road can be required to pay the local authority on account of the betterment of their land. This part of the Local Government Act has been used in some areas, with difficulty, and there is case law from disgruntled landowners taking local authorities to court and this should be reviewed before a similar levy was considered. We consider that if a value uplift levy was introduced, there are previous lessons to be learnt and the value uplift levy is likely to have the same difficulties as the betterment clause in the Local Government Act.

For these reasons, IPENZ does not support the introduction of a value uplift levy.

5d What issues would need to be considered when designing and implementing a value uplift levy?

If a levy is introduced, key considerations would be the level of the levy and criteria or conditions for what the levy funds can be spent on. It would also be important to ensure that the levy did not discourage development.

5e What other funding mechanisms could be used in sustainable urban development?

We suggest that the ability for territorial authorities under the Local Government Act be increased to enable territorial authorities more flexibility and to enable them to assist with sustainable urban development.

5f Are there funding mechanisms that would provide incentives for private involvement in sustainable urban development?

IPENZ has no response to this question.

Ideas, options and issues: Land assembly

6a Are there circumstances in which powers to compulsorily acquire land for urban development purposes would be warranted? Please describe these circumstances.

Using the coercive powers of the Public Works Act for infrastructure is appropriate as there is no question that the land acquisition is for public purpose – that is, public works. Using the Public Works Act for land assembly is different. There may be some councils who would use the provisions for commercial gain in on-selling “assembled” land. To avoid this there would need to be prescriptive legislative provisions that we expect would be complex. On balance, we believe that compulsory acquisition is a heavy-handed approach and its use for land assembly is not strongly compelling.

Page 27 of the discussion document states that compulsory acquisition under the Public Works Act is rarely used. We dispute that – the powers are frequently used as a “threat” and back-up to many purchases of land for public works. The Department of Internal Affairs should confer with the NZ Transport Agency as they have had considerable experience with the Public Works Act.

6b Where the use of central government of Maori land is important to a sustainable urban development project, how could Maori interests in that land be protected?

IPENZ has no comment in relation to this question.

6c What are the advantages and disadvantages of the options?

The discussion document presents three options – do nothing, amend the Local Government Act and/or Public Works Act to make compulsory acquisition more viable, or create separate enabling legislation which permits compulsory acquisition powers to be used in specially declared urban development areas. Our analysis of these options is below.

Do nothing

Advantages	Disadvantages
Avoids use of time and effort to create legislation or amendments.	Compulsory acquisitions continue to not be used.
Urban development is already authorised as a public work under the Local Government Act.	

Amend the Local Government Act and/or Public Works Act to make compulsory acquisition more viable

Advantages	Disadvantages
Compulsory acquisition enables sustainable urban development.	Will take time to amend Act(s).
	Amendments may not pass consultation process.
	Compulsory acquisitions become more common, resulting in legal cases and public reaction.
	Some councils may use the provisions for commercial gain.
	May have other unanticipated consequences if the process for compulsory acquisitions is simplified or made easier.

Creation of separate enabling legislation which permits compulsory acquisition powers to be used in specially declared urban development areas

Advantages	Disadvantages
Compulsory acquisition enables sustainable urban development.	Will take significant amount of time to create legislation.
	New legislation may not pass

	consultation process.
	The cost benefit analysis to back up the need for this legislation would be difficult.
	Compulsory acquisitions become more common, resulting in legal cases and public reaction.
	Some councils may use the provisions for commercial gain.
	May have other unanticipated consequences if the process for compulsory acquisitions is simplified or made easier.

6d Are there other options? Please describe them.

IPENZ has no response to this question.

6e Who should have the power to make compulsory land acquisitions?

- A minister
- A local authority
- A company
- An urban development organisation

We do not consider it appropriate that a company or urban development organisation can compulsorily acquire land given that they have a commercial intent.

We consider that the organisation that can acquire land needs to be a body that is representative of the community and has a holistic view to be able to identify property that needs to be acquired for the purposes of sustainable urban development. Therefore, if land must be acquired, we consider that a local authority is probably the most appropriate body to do this. However, we note that given local authorities also have interests as landowners and therefore conflicts of interest need to be carefully managed.

6f What is required to support land readjustment as a way to assemble land for sustainable urban development?

We consider that the most important step is communication. Communication is necessary to inform the public and landowners of why the area has been selected for development, what the development will entail and the costs and benefits that the community can expect. Providing this information clearly and honestly will enable landowners to make informed decisions.

6g Are there other options to assemble land for sustainable urban development?

IPENZ has no response to this question.

Ideas, options and issues: Streamlining planning and development control processes

7a, 7b, 7c and 7d.

IPENZ has no response to these questions.

Ideas, options and issues: Housing supply, choice and affordability

8a What options could be used to increase the supply of affordable housing, or improve housing affordability, in sustainable urban developments?

We recommend that urban developments contain a variety of housing options to encourage people to find housing in these developments. For example, it would be useful to have small housing to suit small households, through to large housing options to suit larger households.

Where certain types of housing (for example, nursing homes) are required, we suggest that the local authorities should intervene directly to ensure these housing options are present in required locations.

A possible sustainable urban development approach

9a What other approaches to sustainable urban development could be used in New Zealand? Please describe them or provide examples and references.

IPENZ has no response to this question.

9b What do you think about this place-based approach to sustainable urban development?

IPENZ supports the place-based approach to sustainable urban development. We consider that the approach is holistic and should provide clear long term planning and decision-making.

One query we have is why a Minister needs to consider the business case. We would have expected that if the relevant regional and local authorities agree that the project should go ahead, the proposal has investors, developers, and the required funding, then it should go ahead and the Minister's consideration would not be required. We note that sustainable urban development is not a national issue.

How the approach might work

9c and 9d

IPENZ has no response to these questions.

Any further comments?

10 Do you have any other comments on the options and ideas within this discussion document?

IPENZ would welcome the opportunity to work more directly with the Sustainable Urban Development Unit. We suggest that the Department of Internal Affairs consider establishing a working group on urban design. This working group could then provide external advice and include (amongst others) representatives from the engineering, architecture, and planning professions.

CONCLUSION

IPENZ appreciates the opportunity to make this submission and is able to provide further clarification if required.

Tim Davin

Director – Policy