



Local Government New Zealand
te pūtahi matakokiri

Possible National Policy Statement on Urban Design

Comments from Local Government New Zealand

30 September 2008

POSSIBLE NATIONAL POLICY STATEMENT ON URBAN DESIGN - COMMENTS FROM LOCAL GOVERNMENT NEW ZEALAND

1 Introduction

Local Government New Zealand received a letter from the Ministry for the Environment seeking comment on the possible scope of a Proposed National Policy Statement (under the Resource Management Act 1991) on urban design. The following comments and suggestions are from *Local Government New Zealand*. Please note that due to timing issues these comments have not been put to the *Local Government New Zealand* National Council but have been approved by the President and two National Council members under delegated authority.

In order to help with preparation of these comments *Local Government New Zealand* sent out a memorandum to all Chief Executives in the local government sector asking a number of key questions to help with the preparation of these comments. 16 councils responded, some of which will also be forwarding their comments to the Ministry for the Environment. *Local Government New Zealand* asks that these submissions are given due consideration. We did not receive any comments from Regional Councils.

Please note that a number of the comments from councils are from council officers only. In our experience, there is generally more support for statutory guidance at officer level than the organisational or political level of councils. We would welcome the opportunity for further consultation carried out by the Ministry to allow for more input from elected members.

There are advantages in being given a blank slate opportunity to provide comment and there were a raft of ideas that *Local Government New Zealand* received back from contributing councils about what could be included in a National Policy Statement (NPS). The challenge will now be in the analysis to see whether some of these aims can be included within the scope of a NPS under the Resource Management Act 1991 (RMA) framework.

2 Background

Before consideration of a possible NPS on urban design it is important to consider the wider context. The New Zealand Urban Design Protocol identifies seven essential design qualities that together create good urban design. They are: context; character; choice; connections; creativity; custodianship and collaboration. These qualities can be applied at a range of different scales from individual houses and buildings, through to designing neighbourhoods, towns and cities. Urban design is about taking a holistic (integrated) approach, not looking at an urban development in isolation but considering the wider picture. The concept of good urban design is intrinsically linked to the concept of sustainable development.

The concept of sustainable development is core to the purpose and principles of local government under the Local Government Act 2002 (LGA). The purpose and principles of the RMA is the sustainable management of natural and physical resources which is narrower. Many councils now undertake strategic urban planning through LGA processes rather than the RMA.

The purpose of a NPS under the RMA is to state objectives and policies for matters of national significance that are relevant to achieving the purpose of the Act. Regional and district plans must give effect to a NPS, and councils must also have regard to relevant provisions of any NPS as part of decisions on resource consent applications.

The two opportunities to influence urban design outcomes through a NPS are therefore either through requiring certain provisions be provided in regional or district plans or through consideration of certain urban design aspects as part of decisions on resource consents. A NPS could also direct certain process under the RMA.

A NPS on urban design may be the fifth NPS to have been prepared by the government and would sit alongside proposed NPS's on freshwater management; flood risk management and

POSSIBLE NATIONAL POLICY STATEMENT ON URBAN DESIGN - COMMENTS FROM LOCAL GOVERNMENT NEW ZEALAND

renewable electricity generation. A NPS on electricity transmission was gazetted earlier this year. Unlike these current and proposed NPS's there is no use of the term urban design or reference to the concept of urban design in the RMA to indicate that it is a matter of national importance.

Good urban design is an integral part of making our communities liveable and in our social, cultural, environmental and economic well-being. *Local Government New Zealand* and most councils in New Zealand recognise the importance of promoting good urban design and many have taken a number of steps to provide for good urban development outcomes where possible. Many of the large metropolitan councils have well established and highly skilled urban design panels advising on plan changes and resource consent applications.

A number of councils provide possible developers with urban design material and guidelines to encourage good design. Councils have also shown leadership in showcasing good urban design and sustainable development practices through their own building and developments, including infrastructure. A number of councils in comments to *Local Government New Zealand* have recognised weaknesses in their own district plans in relation to urban design and have commented that they will be incorporating better urban design practices into their second generation plans.

Local Government New Zealand has been a signatory to the Urban Design Protocol since the Protocol was established in 2004. We recognise the excellent work of the Ministry both through the Urban Design Protocol work and the preparation of other guidance and case studies.

3 Considerations on a possible National Policy Statement

Feedback from the sector on the possibility of a NPS on urban design was very mixed. There is an even split between councils who support a NPS and those that do not. There are also wide sector views on what could or should be included in a possible NPS and what could be considered as 'out of scope'. We comment on these considerations further below.

Benefits of a NPS

The RMA is very light on urban matters yet is the most fundamental piece of legislation for regulation of urban development. A NPS on urban design would elevate the status and importance of urban design within the RMA framework in relation to district plans and resource consent decisions.

A number of councils made the point that perhaps a NPS should be more about elevating the status of urban planning and the recognition that planning to create liveable community environments is a matter of national significance. That the underlying patterns of settlement in a district or region and the component structures of these settlements were more important in terms of a possible NPS than specific design matters. Linkages with the LGA and therefore the LTCCP we also mentioned in this context.

We note the opportunity for growth planning and urban planning exercises under LGA processes, but also note the limited statutory weight this planning has under the RMA when it comes to the crunch of resource consent decisions. We suggest that it may be useful for the NPS to make the link to urban planning under LGA processes and the link that decisions made on development of the urban environment also have social, economic and cultural consequences.

A NPS would mandate urban design within the RMA framework which would make councils jobs easier in terms of taking into account urban design matters as part of district plan preparation, plan changes and resource consent processing. Some councils have expressed the view to us that they believe they have this mandate already under the RMA and that they are satisfied that urban design is already part of their councils existing planning framework. Whether there is or is not a mandate under the RMA is a cause of debate and there are mixed views.

POSSIBLE NATIONAL POLICY STATEMENT ON URBAN DESIGN - COMMENTS FROM LOCAL GOVERNMENT NEW ZEALAND

While some councils intend to incorporate urban design aspects into their 2nd generation district plans, there is limited guidance available on how to manage urban design issues within district plans. A NPS could provide guidance on this.

In our opinion, a NPS on urban design could usefully elevate the status of urban design as a matter of national significance and more formally mandate urban design within the RMA. If the aim of the Ministry is just to mandate urban design within the RMA then a NPS focusing on urban design could achieve this. If the intention is to strengthen the RMA to allow for better urban development outcomes in the long term and/or consideration of social, cultural and economic effects, then some further analysis of alternative options including amendments to the RMA need to be carefully considered.

Given the wide-ranging feedback so far, this analysis is really fundamental to getting the best from a NPS or other alternative options and we would like to see this form the next step in the process that the Ministry follows in considering an NPS.

Limitations of a NPS

As mentioned, there are differing views amongst local authorities on whether or not to support a NPS. We believe that any ability to provide for better urban development outcomes is very welcomed by councils. The majority of concerns from those that do not support a NPS and the concern of *Local Government New Zealand* are centred around whether a NPS can achieve what local government and communities need, or whether what is required to allow for better urban development under the RMA is outside the scope of a NPS under the RMA. Local government would welcome tools to achieve better sustainable development outcomes but we do not believe that a NPS under the RMA is the right mechanism if the aims are 'broader' than just to mandate urban design within the RMA.

The need for better integration of transport and land-use planning, the need for more intense land use and densities in our urban areas, and the need to formalise linkages between the LGA and the RMA are examples of current issues relating to urban development and design. These issues extend beyond the scope covered in the RMA. From our perspective, the most useful national policy would need to be integrative and cut across the RMA, LGA, Land Transport Management Act and the Building Act. *Local Government New Zealand* believes that a NPS under the RMA is unlikely to achieve this level of integration or adequately address the full scope that is urban design. As mentioned a NPS is limited only to matters that are relevant to the purpose of the RMA (which is limited to sustainable management) and can only direct district plans and resource consent decisions.

As discussed a number of district councils are starting to incorporate urban design aspects into their second generation plans. A NPS would direct ALL councils to consider urban design aspects. This has the potential to be quite a costly task for small councils which have very small urban areas and minimal urban growth or development. If not thought through properly, a NPS could end up making very little difference to overall urban development outcomes for larger urban councils that are already making appropriate changes to their district plans and being quite a costly exercise for smaller councils with very small urban centres and very little urban development.

As part of what should be included in a NPS, consideration will need to be given to how a NPS would apply to smaller councils and smaller urban centres. A number of councils have raised concern in how a NPS on urban design would actually apply to these smaller councils.

Some councils raised the need for a NPS to have a pro-active approach. *Local Government New Zealand* supports any tool that allows councils to work towards what their community wants in terms of outcomes, rather than the current RMA focus which is for councils and communities to consider what they don't want. The majority of planning for all of government is done with an outcomes focus. The RMA has an effects-based focus which is appropriate for some functions (i.e. environmental management) however is also a cause for debate and blame in relation to ad-hoc, poorly designed and not well integrated urban development. We would like to see a more pro-active approach taken in RMA planning however question whether this can be done within the current structure of the RMA.

POSSIBLE NATIONAL POLICY STATEMENT ON URBAN DESIGN - COMMENTS FROM LOCAL GOVERNMENT NEW ZEALAND

A range of mechanisms for local solutions

Local government is generally very supportive of the Urban Design Protocol. Many saw it as a good foundation on which to base a possible NPS. However local government is equally clear on not wanting prescriptive detail in a NPS for all local authorities that would apply across all towns and cities. We do not believe this is the intention of the Ministry. A fundamental aspect of urban design is the need to consider context and place, and these can only ever be decided and debated at the local level. This is why we support a principles-based approach.

As part of the *Local Government New Zealand* sector feedback we asked what other solutions or tools might be helpful. One or two councils stated the view that amending Part 2, section 6 or 7 of the RMA to include urban design would be a better option than a NPS. *Local Government New Zealand* considers this an option worth investigating.

Non-statutory guidance and guidelines on how to address urban design in district plans were also mentioned.

A number raised issues relating to the lack of resourcing and skills in urban design, including within councils. Further training opportunities would be welcomed.

The need for central government departments, agencies and institutions to take more of a leadership role in their own urban developments was also raised as an important way to raise the awareness of good urban design.

Process considerations to determine the best policy/regulatory response

While *Local Government New Zealand* recognises some of the constraints faced by the Ministry in terms of central government process and requirements of the RMA, we note that generally good policy development requires the identification of specific problems or issues before deciding which mechanism would be the best tool to solve these identified issues or problems. With the NPS process we see the policy tool decided before the aims, objectives and policy problems are even decided. This process essentially locks all of us into an outcome - in this case a NPS before any robust debate has even occurred as to whether a NPS is the best choice. We look forward to seeing some robust upfront problem definition, policy analysis and cost/benefit analysis.

Local Government New Zealand notes the recent release of the government discussion document 'Building Sustainable Urban Communities' which presents a range of possible solutions to identified problems. This type of 'options' presentation seeking specific local government feedback is our preferred consultation method, including a much longer period of time for submissions.

As the Ministry is aware the discussion document aims to strengthen the ability of urban development organisations (including local authorities) to achieve better urban development outcomes. As expected, urban design is a core component of some of the topics and issues discussed. We stress the importance of the Ministry and the Department of Internal Affairs working together and integrating both feedback received and decisions on the next steps for both projects.

Local Government New Zealand is available to assist the Ministry with further work and to facilitate further consultation with the sector. We have set up an urban development working group that can act in an advisory capacity for any additional work. The working group is made up of a range of experienced managers and practitioners from a range of different types of councils. We encourage the Ministry to utilize the expertise of this group on any further work.

4 Summary and Conclusions

Urban design is a broad topic that is intrinsically linked to the concept of sustainable development. The ability of a NPS to influence urban development or urban design is limited

POSSIBLE NATIONAL POLICY STATEMENT ON URBAN DESIGN - COMMENTS FROM LOCAL GOVERNMENT NEW ZEALAND

to matters relevant to the purpose of the RMA through district plans and resource consent decisions. Many of the processes of the RMA do not allow for the consideration of social, cultural and economic effects, nor the consideration of a 'whole' or integrated picture. Many councils have tried to work with this as best as possible by undertaking growth planning and urban planning under the LGA and by introducing specific criteria in relation to the urban design of buildings, streets and neighbourhoods into their district plans as best they can.

If the intention is for the Ministry to raise the status of urban design and mandate urban design in the RMA then this could be achieved through a NPS on urban design. This would require councils to include urban design aspects in their district plan and take urban design considerations into account as part of resource consent decisions. A number of councils are already incorporating these aspects into their second generation plans. Councils which are not are likely to have little urban development happening in their districts. Any NPS should take a principles-based approach providing councils with high level statements to support them in making local decisions.

If the aims of the Ministry are broader and for example relate to the better integration of land-use and transport and more integrated decision-making there is limited ability for a NPS under the RMA to address these matters. We suggest that options including actual changes to the RMA need to be considered. Good policy development requires the identification of problems and issues upfront so that the best course of action can be taken. In our view more work needs to be done at the problem definition stage before we could be convinced that a NPS on urban design is warranted or necessary. We do not want to embark on a NPS if it is not going to offer the best tools to provide for quality and sustainable urban development in the long term.

Local Government New Zealand welcomes further discussion with the Ministry for the Environment and we make ourselves available to facilitate further discussions with the local government sector.

We thank the Ministry for the Environment for the opportunity to comment at this early stage.