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Urban Development Authorities

Recommendations

That the Board:

- i. Receives the report on the Urban Development Authorities (UDA) discussion document.
- ii. Endorses a joint submission on the Government's discussion document with Auckland Council (AC) subject to the retention of matters of significance to Auckland Transport (AT) in AC's approved submission.
- iii. Authorises the Chief Executive to sign a supporting letter to accompany AC's submission, emphasising key points of interest to AT.

Executive summary

1. UDAs are a Government proposal designed to expedite significant urban development projects. UDAs would be established for selected development projects agreed by the Government and the relevant Council, and would have access to a range of special powers tailored to the needs of each project. The powers include:
 - a. Land acquisition and assembly;
 - b. Funding and finance;
 - c. Planning and consenting; and
 - d. Infrastructure powers.
2. At an officer level, AT supports the concept of UDAs. The fast-tracking of development proposals that align with AT's strategic direction is a significant opportunity, as is the potential for UDAs to access alternate funding mechanisms for infrastructure delivery. Conversely, a number of significant risks have been identified, particularly in cases where selected developments do not align with AT's strategic direction. The draft AC submission (Attachment 1) is generally well aligned with AT's views.
3. Given the alignment that currently exists between the AC and AT officer views, a joint submission is recommended as the most straightforward means of engaging with the Government on the UDA proposal. AC's submission is to be presented for approval to the 2 May Planning Committee meeting. The Board will be updated on the Council's position at the Board meeting.

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4. Submissions on the UDA Discussion Document close on 19 May, with a Cabinet paper to be submitted by July. Should the process proceed as planned, a Bill will be introduced to Parliament in the second quarter of 2018.

Previous deliberations

5. Feedback from the Capital Review Committee meeting on 20 April has been incorporated into this report. (CRC presentation: Attachment 2)..

Strategic context

6. The UDA proposal responds to a perceived failure of planning regulation and the market to enable and deliver urban development at sufficient scale and pace in high growth centres. In this regard, the proposal is aligned with the Auckland Plan's direction on increasing housing supply to meet demand.
7. Should appropriate checks and balances be applied to the selection of UDA development areas, the proposal offers the possibility of accelerating development that has the potential to be spatially aligned to AT's strategic direction, and place a lesser funding burden on AT in terms of growth-related infrastructure.
8. The following areas of alignment with AT's strategic themes are noted:
 - a. Prioritise rapid, high frequency public transport – accelerated development in areas serviced by high quality public transport will increase patronage and cost recovery;
 - b. Build network optimisation and resilience – proposal potentially supports the accelerated delivery of infrastructure to support urban development;
 - c. Ensure a sustainable funding model – with appropriate checks and balances included, a UDA could release alternative funding for infrastructure; and
 - d. Develop creative, adaptive, innovative implementation – the proposal represents a creative and adaptive approach to accelerating urban development with supporting infrastructure.

Background

9. Under the current proposal, a UDA development project could only be established with the agreement of Government and the relevant Council. Consultation at the establishment stage would include infrastructure providers, including AT. A development plan would subsequently be

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established to define project objectives which would become the primary driver of planning decisions, as well as the special powers to which the UDA would have access.

10. The range of special powers accessible to UDAs would include the following:

- a. Land acquisition and assembly powers, including the ability to exercise compulsory acquisition as per the Public Works Act 1981;
- b. Funding and finance powers, including the ability to levy targeted infrastructure charges;
- c. Planning and consenting powers, including the ability to process its own resource consents and change existing planning provisions applying to the development area; and
- d. Infrastructure powers, including the ability to declare, stop, move, build and alter roads and public transport facilities and services; and act as a requiring authority.

Issues and options

Key Issues for AT

11. A stakeholder guide for infrastructure and utility providers has been prepared by the Ministry of Business, Innovation and Employment (MBIE). Attachment 3. As noted in paragraph 2, AT generally supports the concept of UDAs. Nonetheless, a number of potential risks and issues have been identified. These include (but are not limited to) the following:

- a. The establishment process may not be sufficiently robust and may result in UDA development areas that are not spatially aligned with AT's strategic direction. The Discussion Document's assumption that Territorial Authorities will provide adequate checks and balances does not reflect the Auckland situation where AT rather than AC is the Road Controlling Authority;
- b. The proposed requirement of statutory planning documents to align with the UDA development plan risks misalignment with regional priorities. In particular, the proposed requirement that the Long Term Plan, Regional Land Transport Plan and Regional Public Transport Plan are not inconsistent with a UDA's strategic objectives risks diverting funds from key AT projects and impacting on long term network planning. This risk will remain without a reciprocal requirement that a UDA's strategic objectives are consistent with regional priorities;
- c. Where deployed, the proposed transport powers would effectively override AT's powers, particularly the ability to alter networks, vest private roads and alter public transport services. While potentially an effective means of delivering networks within project areas, the proposals risk isolated ad-hoc changes with wider unintended implications on network performance and costs. Generally, the proposals have a strong focus on local solutions and lack a holistic view on how networks operate;

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- d. AT designations would not be automatically rolled over into a UDA development plan. Resolution of conflicting recommendations from the requiring authority and the UDA would be settled by the Minister on the recommendation of independent commissioners. As such, there is a risk that AT designations could be uplifted without AT support or consent; and
- e. There are a number of potential cost implications to AT where UDAs will have the ability to require alterations, upgrades and removal of infrastructure. More clarity is also required on the matter of asset vesting and how operating costs and debt is settled with 'receiving' organisations such as AT.

Auckland Council submission

12. The draft AC submission (Attachment 1) is generally well aligned with AT officer views. The key issues raised in the submission include (but are not limited to) the following:
- a. Council supports in principle the establishment of UDAs as a means of effecting urban development at speed and scale where they align with current planning and priorities. This support is effectively conditioned on the requirement that the Government and Council must agree prior to the establishment of a UDA (effectively a veto right);
 - b. Council opposes aspects of the proposal that override Council planning and priorities including the Auckland Plan, Unitary Plan, Future Urban Land Supply Strategy, etc. The submission further notes that existing Crown and Council agencies have well advanced programmes in Auckland;
 - c. Council generally supports apportioning the special powers being made available to a UDA according to the specific needs of the project. Council also notes that the Council family holds most of the powers outlined in the Discussion Document; and
 - d. Council notes that the application of the 'full bundle' of special powers would significantly change fundamental precepts around local and community engagement and decision making.

Recommended submission approach

13. Given the alignment that exists between the AT and AC officer views, a joint submission approach is recommended (subject to the retention of matters of significance to AT, noting the Council submission is to be finalised at the 2 May Planning Committee). Furthermore, it is proposed that an AT letter is appended to the Council submission to highlight the key issues of significance to AT.

Next steps

14. Public submissions close on 19 May. The Council submission will be finalised and endorsed by the Planning Committee on 2 May. A Cabinet paper is anticipated following this initial consultation process in July.



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15. Should the process proceed as planned, it is anticipated that a Bill will be introduced to Parliament in Q2 2018 following 9-12 months of legal drafting. The Bill would then be expected to reach the Select Committee stage in Q4 2018.

Attachment

Attachment Number	Description
1	Draft Auckland Council submission - <i>this attachment is saved in the resource centre in Boardbooks</i>
2	Presentation to the Capital Review Committee on the UDAs proposal, dated April 2017 – <i>this attachment is saved in the resource centre in Boardbooks</i>
3	Stakeholder guide – infrastructure and utility providers, MBIE - <i>this attachment is saved in the resource centre in Boardbooks</i>

Document ownership

Submitted by	Don Munro Manager Strategic Policy Integration	
Recommended and Approved for submission	David Warburton Chief Executive	

Glossary

Acronym	Description
UDA	Urban Development Authority
MBIE	Ministry of Business, Innovation and Employment

DRAFT Auckland Council Urban Development Authorities submission 180417
Not for circulation. Not council policy.

Auckland Council Submission to the Urban Development Authorities Discussion Document February 2017

Introduction

1. Auckland Council ("the council") welcomes the opportunity to engage on the Ministry of Business, Innovation and Employment's (MBIE) *Urban Development Authorities: Discussion Document February 2017*.
2. The council has worked with Auckland Transport, Panuku Development Auckland, Watercare Services Limited and the Independent Māori Statutory Board in the preparation of this submission.
3. The council's submission consists of high level summary comments; some national and regional context setting; the council's position to the Productivity *Commission's Using Land for Housing* inquiry; discussion about wider urban planning reform; a proposed way forward and then provides comment on the issues it considers to be most substantive, following the order in which they are introduced in the discussion document.

Overall comments

4. The council's high level summary comments on the proposals include the following
 - The council supports in principle the establishment of urban development authorities as a means of effecting urban development at speed and at scale in Auckland. Many of the specific proposals in the discussion document are supported. However, the council has significant concerns with some aspects of the overall proposal, including: the composition and powers of Urban Development Authorities (UDAs); the processes outlined for the development of UDA; and about the nature of new urban development that could arise if these are not sufficiently cognisant of, and responsive to, the legislative, planning, environmental and infrastructure context in which they would sit.
 - The council supports urban development that provides for local aspirations and aligns with current and future plans, and takes a collaborative approach to urban regeneration.
 - The council believes there is scope for central government to undertake complementary development activities and to work alongside Panuku Development Auckland.
 - The scale and pace of Auckland's growth makes it important that the council takes a strategic approach ensuring that the right residential, business and commercial land is released in the right places at the right times.
 - The council strongly supports the proposal for territorial authority veto rights (page 35, Section 4). In particular, the veto right is essential to ensure the strategic objectives of an UDA are appropriate and do not undermine the council's responsibilities under the Part 2 of the Resource Management Act (RMA).
 - The council does not support proposals in the discussion document that could allow the strategic objectives of a UDA in a project area to override council's strategic

decision making at the city and regional level. This includes proposals that would conflict with the urban growth strategy contained in Auckland's Unitary Plan (AUP) and the Auckland Plan.

- Conversely, the requirement to establish strategic objectives for a project area could ensure strategic and economic objectives that are wider than those enabled under the RMA could be brought into the development planning process and decision making process on consents. Subject to the council's oversight (and potential veto if inappropriate), these could ensure the UDA's development plan appropriately reflects Council's responsibilities under the Local Government Act 2002 to provide for social, economic, cultural and environmental wellbeings. This is not presently possible under the standard RMA planning process and is a significant step change away from the constraints of effects-based planning.
- The potential impacts on the environment from urban development, and of the importance of a healthy environments in "...creating an attractive and sustainable urban environment" in the proposals will in most cases, need to be reflected in the UDAs strategic objectives. This is particularly critical as the strategic objectives will have greater weight than the Purpose and Principles of the RMA or Unitary Plan provisions.
- The council and its CCOs are the entities best placed in the Auckland region to deliver urban regeneration at speed and scale. It is the primary entity in Auckland that has the resources, skills and expertise available to work at a range of scales, from sub-regional town centre development to individual sites.
- The council supports the proposition that all the statutory powers to unlock and enable urban development should be made available to a single development entity to implement. The council group holds most, but not all of these statutory powers. Holding these powers would enable the council to move faster on implementing urban growth.
- The land assembly, compulsory acquisition and reserves proposals outlined in the discussion document are supported as the proposal reflects the council's existing practice wherein Panuku is exercising the council's Public Works Act (PWA) powers under delegation. To assist with the exercise of PWA powers, it is recommended the term "urban renewal" is restated in the new UDA legislation and the current PWA offer back provisions are amended to ensure these are not triggered by contractual transfers.
- Subject to its ability to veto the establishment of a UDA project area, the council supports the proposition that the bundle of statutory powers should be apportioned according to the specific needs of the project. For example, with the AUP now operative in part the majority of development areas do not require plan changes or development plans to enable urban growth, however it is still useful for the Council Group to retain this as a potential planning tool.
- As currently drafted, there are elements of the proposal which, without amendment, could have workability issues at the implementation stage, including:
 - The status of existing Crown and council development agencies. These agencies have well advanced development programs in Auckland and the proposal to create new agencies is an unnecessary dilution of focus and resources;

- The Development Plan process includes significant changes to the RMA decision making process with the Council's role limited to the lodgement of a submission.
 - To be cost effective and efficient, the provision and timing of infrastructure needs to be planned at the regional scale;
 - Given the council's role and existing practice, it is efficient for the planning and consenting powers outlined in the proposal to be carried out by the council group;
 - The interventions signalled in the proposal will not address all of the underlying constraints and issues that presently hold urban development back. For the most part these relate to infrastructure funding supply, site aggregation costs, or capacity issues within the building industry.
- The council is concerned that the proposals do not appear integrated with the government's wider package of reforms, both those which place a greater emphasis on speedier decision making.

Auckland context: the highest growth urban area in New Zealand

5. Auckland is home to the largest urban population in the country. It hosts New Zealand's largest commercial centre, providing a third of all national employment and contributing 35% of national GDP.
6. Most population growth in New Zealand occurs in Auckland and this is projected to continue, with 40% of New Zealand's population predicted to live in Auckland by 2043, compared with 34% in 2013. With a population projected to reach more than 2.2 million by 2043, Auckland's growth combined with the concentration of population within its naturally challenging physical form puts pressure on resources. Auckland's growth combined with the concentration of population within its naturally challenging physical form puts pressure on resources. This creates challenges for environmental and resource management as well as posing significant challenges in aligning investment and planning decisions required to house Aucklanders and deliver the significant infrastructure required for the future to maintain its role as New Zealand's powerhouse. This growth places enormous pressure on current and future residents.
7. The total additional area needed to provide for new growth within the AUP is more than 1.5 times the area of urban Hamilton. Many of the projects essential for enabling urbanisation in Auckland cost hundreds of millions of dollars. For example, as outlined in Auckland Transport's evidence to the Auckland Unitary Plan Independent Hearings Panel (AUP IHP) the 'trunk' transport infrastructure for the 'Future Urban Zone' land in the Proposed Auckland Unitary Plan (PAUP) was estimated to cost \$5.9 to \$7.7 billion¹. In addition to the cost, there is often a long lead time. The Independent Hearings Panel on the PAUP cited a 10-year time period to complete the consultation and consenting requirements for the Central Interceptor, to store and convey wastewater, at an estimated cost of \$920 million which includes link sewers.
8. This scale of Auckland's growth is unprecedented in the New Zealand context, making it even more important that the council takes a strategic approach ensuring that the right residential, business and commercial land is released in the right places at the right times. Land release for development must align with the provision of appropriate infrastructure and amenities that is able to meet current and future needs.

¹ Joint Statement of Evidence of Theunis van Schalkwyk, Evan Keating, Scott Macarthur and Alastair Lovell (Auckland Transport) on Topics 016/017 – Rural Urban Boundary.

9. The council has a number of initiatives underway that will enable Auckland to respond to growth pressures. These include implementing the AUP and the National Policy Statement on Urban Development Capacity, undertaking its own urban development activities through Panuku Development Auckland, updating its Future Urban Land Supply Strategy and refreshing the Auckland Plan. There are also ongoing discussions with central government through the Auckland Transport Alignment Project to address broader transport issues and to begin implementing project recommendations.

Council's position to the Productivity Commission

10. The council has previously made its views clear on central government's role within an Auckland based urban development agency within the context of the Productivity Commission's *Using Land for Housing* inquiry.
11. Both the council and the Productivity Commission agreed² that there can be high value in urban development agency models particularly in de-risking development and bringing land to market, but it is preferable for central government's role to be largely supporting existing or new regional urban development agencies.
12. The Commission explicitly noted that "*rather than establishing parallel UDA[s], central government should seek to support the activity of locally established UDAs*"³. It noted that "*local UDAs are most likely to be effective where they have the support of central government in undertaking their work*"⁴.

Wider planning reform

13. The planning and consenting system as a whole is out of scope for this set of proposals. However, council has concerns about the timing and implications of substantial existing reforms on the UDA proposals. There is risk that decisions borne from the reforms could conflict with or work against the proposals. The council recommends that before the legislation is progressed, there is ongoing engagement with the council and other local government bodies, with careful consideration of the other legislative changes. Such reforms include the Resource Legislation Amendment Bill, ongoing reform of the Local Government Act, amendments to the Unit Titles Act, Te Ture Whenua Māori Bill, and updates to the National Policy Statement on Freshwater Management.
14. In addition, the Minister for the Environment has recently signalled a significant body of reform arising from the Productivity Commission's *Better Urban Planning* inquiry to be released prior to the general election. The Ministry for the Environment's review of the current resource management and planning system is still underway, and is also likely to result in significant reform although it is on a longer timeframe than the Commission's inquiry.
15. The council cautions that ongoing changes to the planning framework have tended to focus on improving processes and reducing costs and delays in the plan-making and consenting process. While this is important and helps to provide greater process certainty for those involved, it can result in undue focus on process and compliance, potentially losing sight of the overall outcomes sought.

Ongoing engagement with Central Government

² Productivity Commission Using Land for Housing recommendation 10.2

³ Productivity Commission Using Land for Housing Final Report p305

⁴ Ibid p306

16. The council urges central government to work collaboratively with key stakeholders to develop, and share with the wider public, a coherent programme of urban planning and development legislative and policy reform.

17. The council would welcome the opportunity to help central government in developing and shaping such a work programme.

Comments on specific proposals

The council provides further comments on the more specific aspects of the proposals in the key chapters of the discussion document.

Section 2: Why do we need new legislation

The council recommends that the nature of the problem which the discussion document seeks to solve is more clearly identified. Many of the actions intended for UDAs' use are already available to local authorities. The council does use the PWA to compulsorily acquire private land (after open market negotiations have proved unsuccessful), and area specific planning provisions do apply to selected areas to promote greater intensification and development yield. While much of the impetus for proposing the use of UDAs comes from concerns about the supply of housing, the council supports the proposition that UDAs may be developed to facilitate business/commercial land. More specific problem definition would be helpful in providing useful feedback and suggested improvements.

The package of proposals is significant in scale and complexity. Simpler solutions may be available, especially if the problems were to be more clearly identified.

The council does not agree that the benefits (page 15) include better integration between land use planning and transport systems; and increased planning certainty for developers. The proposals are likely to reduce integrated planning and reduce certainty for local government (and other actors). This is due to the potential for out of sequence/ad hoc greenfields proposals to be brought forward which may conflict with long term planning for growth and infrastructure investment. The ability for a UDA to veto resource consents or impose consent conditions ensures individual proposals will not prevent or hinder future developments (that proposed to be undertaken for the wider public good) from occurring. This however, creates further uncertainty (and natural justice issues) for private interests (see proposal 100).

The UDA proposals are intended to address low housing supply, reduce land market constraints, and ensure that urban areas experiencing high growth are vibrant, attractive, liveable cities. The council notes that it has a number of initiatives or mechanisms already in place for the Auckland region:

- a. The AUP provides feasible enabled residential capacity of at least 422,000 dwellings (this estimate includes the expected capacity in Future Urban Zones of 115,000).
- b. AUP's operative in part status has simplified land use resource consenting and enables more development potential. There are fewer zones and these are consistent region-wide. The zoning supports intensification, particularly around centres and along key corridors. Growth is also provided for within the rural-urban boundary.
- c. Special Housing Areas (SHAs) across Auckland and associated qualifying developments have been approved, enabling residential development. This includes variations to the then Proposed AUP, enabling greenfields development.

- d. The council's CCO, Panuku, is actively working to transform priority development locations around Auckland by itself and in collaboration with others.
- e. Resource management law reform contains further proposals to expedite decision-making as we have already noted.

Section 3: Framework and processes

The following set of comments respond to the framework (proposals 1-21) and processes (proposals 22-55; processes diagram) in the discussion document. The comments also reflect the questions posed in Section A: Criteria or thresholds for selecting urban development projects (page 100).

Framework – Core components, Scope, Application (proposals 1-20)

18. Proposals 1-20 set out the provision for significant enabling development powers that central government and territorial authorities will select together for each development project and areas. The council recommends that given these proposals require more rigour, given the significant powers proposed.
19. The council supports the intention of the proposed legislation for government to collaboratively support specific urban development projects at the neighbourhood level for locally significant projects that are complex or strategically important, and not stand-alone infrastructure projects (11-20).
20. The discussion document identifies the types of projects and features that warrant a development being considered for support under the proposed legislation. The set-up of a proposed UDA and subsequent projects need to reflect the outcomes it aims to achieve. For example, if a UDA aims through its projects to address housing issues, the strategic objectives of the UDA should include housing related outcomes including social and affordable housing.
21. An example is the importance of attractive urban environments for attracting people with highly valued skills (11c). Where relevant, the strategic objectives should identify that sustainable urban development includes concept of integrating new development with natural features, including through the use of green infrastructure, such as enhanced stream networks and wetlands, to help create environmentally attractive and sustainable new development.
22. The council supports the urban focus of UDAs, and recommends that urban development and regeneration should focus on the existing urban area, or at least in areas already identified for growth such as within the Rural Urban Boundary. Development or redevelopment in existing urban areas can be difficult and this proposal goes some way to overcoming some obstacles to development. We consider that areas for which a UDA can be convened should be:
 - a. Areas of land zoned urban in an operative district plan; and
 - b. Areas of land identified or zoned as 'future urban' in an operative district plan and within any urban limit contained in the regional policy statement.

This definition will ensure the focus of an UDA development proposal is in an urban area, which the territorial local authority considers is feasible for some form of urban development and that is able to be serviced with trunk infrastructure. Importantly, it also means the public have already been consulted on whether it is appropriate for the area to be urbanised.

23. The discussion document proposes that the type of project area would support urban development wherever this may occur, including greenfields areas at or beyond the edge of any existing built-up area (21).

24. The council recommends that further work be undertaken on the criteria (Section 10: Other matters), particularly regarding scale. Scope and scale needs to be clearly defined for application of a UDA. While unlimited scope allows for flexibility, it may cause problems for implementation. Additionally, based on learnings from overseas, there may be an ideal size or range that is proven to be most effective and efficient to develop. A UDA that is too small or too large could have more disbenefits than benefits (21). The provision of guidance notes and parameters would be useful to guide successful implementation.

25. The implications for Auckland's wider infrastructure network, and alignment with strategies such as the Future Urban Land Supply Strategy are significant. Within Auckland 60%-70% of development is intended to take place in urban areas, pursuant to the Auckland Plan and the AUP. The redevelopment of these brownfield areas will require not only the provision of new infrastructure to service the development, but the upgrading and replacement of existing infrastructure (including some that is a proposed UDA boundary. Care will need to be taken to ensure that the cost and timing of upgrading and replacing existing infrastructure in these areas is fully factored into any funding and financing of infrastructure serving the UDA area. Incentives may be required to encourage brownfield development (as opposed to greenfield development) in order to compensate for additional complications within brownfield areas (i.e. relocating existing infrastructure that services upstream or downstream properties).

Framework - Benefits (proposal 21)

26. The council recommends that proposal 21 be strengthened to make public good outcomes mandatory, and expanded to recognise and ensure that the profit from a development be required to be directed back into public good outcomes. It there is transparency of the strategic objectives sought and the opportunities to recycle profit from developments into further achievement of those objectives, this could provide support for use of greater powers to enable developments – such as reduced rights of appeal and ability to acquire land compulsorily. Additionally, the transfer and use of a local authority's land needs to result in a public benefit for the local community.

27. The council recommends that specific outcomes should be fundamental to the application of an urban development project and should be incorporated in the strategic objectives. This includes the quality of a development, and should be focussed on communities, and the necessary infrastructure to support them community facilities, open space, and public transport.

Processes – Establishment stage, Development plan stage, Contents of the development plan (proposals 22-40)

This section responds to the proposals 22-33, and the diagram of proposed process (p14-15).

28. Given the significant powers in the proposed legislation, the council recommends that robust checks and balances underpin the process for identifying the establishment of an urban development project, and throughout each stage of the development plan. Use of public land can be controversial and result in dis-benefits to some residents. It is appropriate that there are safeguards in place to protect the public interest.

29. The council therefore would not support a reduction in public participation, local decision making or accountability by publicly elected representatives, and recommends that it be explicit that territorial authorities means all of its councillors.
30. Agreement between central and local government will be of vital importance to UDAs. For the avoidance of doubt, the council considers that the establishment stage should require agreement between central and local government on the proposed UDA (proposal 24(c)) prior to public consultation.
31. The initiation stage of the project establishment phase is foundational, and requires relevant actors to be engaged in the process. The council also recommends that the council and its partners would be best placed to undertake the initial assessment as they have the local knowledge. Infrastructure providers must be included in the initiation stage due to the process of identifying opportunities includes the availability, or otherwise, of infrastructure. For Auckland this includes Watercare and Auckland Transport.
32. The council has concerns that the proposals do not take into account that in the Auckland context, Auckland Transport has the transport powers of the territorial authority, and that the territorial authority is not the road controlling authority. The council recommends that this legislative role is recognised in the UDA legislation. The Local Government Auckland Council Act establishes Auckland Transport with functions and powers of a local authority under a range of Acts. It is unclear whether "local authorities" in the document could include Auckland Transport.
33. Environmental impact be considered at all stages of the proposal (including initial assessment and pre-establishment consultation), as both constrains/potential for adverse effects and opportunities for environmental enhancement to improve UDA outcomes (proposals 23, 32, 34). The council recommends a stronger recognition of mitigation, offsetting and enhancement through the development plan (and earlier). Consideration of environmental outcomes only explicitly required to be considered at the development plan stage is too late (proposal 40(e)).
34. Iwi should be involved at each stage of the establishment process where the government is present (initiation, assessment, government agreement, public consultation and establishment stages). This is necessary to uphold co-governance requirements under the Treaty of Waitangi. In addition, the Building Sustainable Urban Communities discussion document notes the increasing need for iwi capacity and capability to engage in urban development processes and to be in a position to invest in development⁵.

Processes – Approval of the development plan, Dispute resolution (proposals 43-49)

35. The council supports the Minister resolving objections on the development plan after a review by independent commissioners. However, the proposal should be expanded to enable the local authority to also be included within this decision-making process to address local issues (43, 47).
36. The document proposes that significant powers to independent commissioner to resolve disputes between the UDA and other parties. In addition to impacts on property rights, need to consider any practical implications. The council recommends that if project

⁵ Building Sustainable Urban Communities. Department of Internal Affairs. 2008.
https://www.dia.govt.nz/diawebsite.nsf/wpg_URL/Resource-material-Sustainable-Urban-Development-Index?OpenDocument

potentially takes a long time implement, that the power to appoint, remove, replace commissioners would be needed, for example conflicts of interest arise, commissioners become unavailable, etc. Further clarification is required regarding how the dispute resolution would apply if dispute resolution is between private developer delivering the project, and others, but not the UDA (49).

Processes - Role of territorial authorities and regional councils (proposals 50-55)

37. The council strongly supports territorial authority veto rights (50). A UDA proposal will likely impact on infrastructure supplied by regional councils, both in terms of existing capacity, and the implication that UDAs can require upgrades beyond the development area.
38. Territorial authorities (whose agreement is already required prior to consultation occurring), should be the decision-maker on whether to proceed to public consultation on a development proposal (51).

**4 Urban Development Authorities
Proposals 56-71**

**Section 5 Land assembly, compulsory acquisition and reserves (Appendix 4 prompts)
Proposals 72-96**

Land assembly – Market based negotiation (proposals 72-74)

39. The council supports proposals 72-73, whereby land assembly powers that allow a UDA purchase land by agreement with the landowner (72); and, at the landowner's discretion, a UDA can pay for all or part of the land in the form of equity stake in the development projects (73). This will make it easier for an UDA to assemble fragmented sites and thereby make a development more likely to be economically feasible.
40. The council seeks clarification regarding proposal 74. As proposed, a UDA can dispose of its land, including by sale, lease, easement, or transferring the land to other government agencies. It is unclear whether the proposal allows land disposal (of any kind) limited to other governmental agencies. Would, for example, disposal land then in turn form part of any existing or future Right of First Refusal (RFR) arrangements. RFR should follow the path of transfer of disposal lands from the UDA to other government agencies. We consider that checks and balances are essential to protect the public's interest and note that ordinarily the sale of council owned land would be tightly controlled.

Land assembly – compulsory acquisition (proposals 75-81)

41. The council supports proposals 75, 76, 77, 78, 79. UDAs should have access to the proposed powers, subject to the requirements in proposal 78, including seeking approval from the Minister for Land Information. In many cases however the UDA will be acquiring land for the same land use.

Land assembly – Value of compensation (proposal 82)

42. The council does not support the proposal 82, whereby after the development project has been established, the prior approval of the Minister responsible for the proposed

legislation is required before another public agency can exercise a power of compulsory acquisition over any land within the development project area. We consider that the landowner whose land is acquired for the development, should be able to have a share in the betterment profits resulting from the higher residential density development associated with the proposed development. At a minimum the full economic cost to landowners should be compensated – perhaps with a standard mark up, to reflect the increase in value associated with the development. Such an approach would make the development more likely to garner landowner support. In addition, local authorities that are required to transfer public land to the proposed development should be able to have a share in the betterment profits resulting from proposed development

Land assembly – Assembling public land (proposals 83-84)

43. Proposals 83(a) and (c) use different language. The council recommends that consistent language be used to make it clear that local authorities are to be financially compensated for the transfer of their land to a UDA.

Reserves (proposals 89-96)

44. The council supports proposal 89 and 90, whereby powers over reserves only apply to the following types of reserves
- a. recreation reserves;
 - b. local purpose reserves;
 - c. scenic reserves;
 - d. historic reserves; and
 - e. government purpose reserves,
- provided that a reserve of this type either exists or is created within a development project area ("Identified Reserves") and powers over reserves will not apply to any of the following types of reserves (90):
- a. nature reserves;
 - b. scientific reserves; and
 - c. Māori reserves under the Māori Reserved Land Act 1955.
45. The council supports the limitations set out in proposals 92 and 93, but considers there should also be consideration given to natural and historic values of regional value, and that these limitations should apply to all reserve types, should they be present on the reserve. In Auckland, there are several scenic reserves with significant indigenous biodiversity values which should be taken into consideration in relation to any acquisition proposal.
46. UDAs should have the powers to reclassify reserves if the reserve functions poorly and the development plan demonstrates a better urban form can be achieved with a reserve in an alternative location. If a UDA reclassifies a reserve a better functioning open space should be provided as part of the development. Good quality public open space increases in importance when there is potential for greater density of development - as onsite amenity tends to be replaced with public amenity in parks, reserves and streetscape. The community has told us that the public highly value existing reserves in urban environment. Enabling UDAs to remove such reserves will require excellent communication and consultation to achieve public buy in and avoid strong community opposition to future development proposals (particularly as these proposals are intended to primarily take place on public land).
47. The council supports proposal 95, and recommends further consider that the replacement reserve must have at least the same utility as the original reserve. For

example it must have the same level of improvement with replacement or equivalent facilities e.g. sports grounds, play equipment et cetera appropriate for its intended use, and positively contribute to an improved urban form.

Section 6: Planning, land use and consenting powers (proposals 97-111)

48. The powers outlined in the discussion document proposes substantial changes to existing resource management plan making and resource consenting processes. These powers give a UDA roles and functions normally undertaken by a council and appear to challenge a fundamental premise in local government practice that as the representative for local communities, councils are knowledgeable and should be empowered to make local decisions. In the case of the planning powers exercised by councils, these are a form of subordinate regulation (e.g. district plans) and involve quasi-judicial decision-making processes such as the grant or refusal of resource consents.
49. Within the council group, the development plan process and consenting powers outlined in the UDA document could be implemented fairly and transparently. For example, Panuku Development Auckland works closely with the planning and operations divisions of the council to ensure robust planning, consenting, and design processes occur. Staff are regularly drawn from across the group to jointly work on projects, either temporarily or on a secondment basis. These measures result in applications which align with the council's objective and can as result usually be processed within shorter timeframes. To ensure transparency, the decision-making on all resource consents lodged by Panuku is undertaken by independent planning commissioners.
50. Given the close working relationship between staff, it would be a small step for the council group to delegate additional consenting powers to a council initiated UDA such as Panuku.
51. The discussion document proposes substantial changes to existing resource management plan making and resource consenting processes. The intention of these changes is to address delays, uncertainties and costs of plan changes and resource consent processes. With the AUP now operative part, the macro issue regarding delays with plan changes is largely addressed. For example, across its nine Transform and Unlock project areas⁶, Panuku is likely to require only two plan changes to enable site specific proposals to advance.
52. This is also addressed through the Resource Legislation Amendment Bill, which provides for two new planning tracks for councils when developing plan changes which limit appeal rights and allow plan changes to be processed on a limited notified basis.
53. The council recommends that whilst the plan making process is a significant exercise for a local community that is considered best left with the council to undertake, the plan administration functions (including resource consents) could readily be undertaken by a UDA acting under delegation from the council. Master-planning for a project area is separate from regulatory plan making. In Auckland's experience, Panuku has the expertise to develop quality master-plans that lead to urban redevelopment. Enabling UDAs to undertake master-planning is supported, enabling regulatory plan-making is not supported.

⁶ Panuku Development Auckland Statement of Intent, 2016-2019.
www.panuku.co.nz/www/pdfs/panuku-development-auckland-statement-of-intent-v2.pdf

54. The proposals in the discussion document to address planning and consenting issues may not necessarily speed the development process up. When the development process is reviewed in a linear way from project initiation to construction, the pressure points curtailing timely development occur later in the process. In the council group's experience, the key timing constraints are generated at the implementation stage and include matters that fall outside the regulatory process managed by the council. In addition, there are often a significant number of unknowns that can delay a project at the construction stage, including undiscovered ground conditions or adverse weather events.

Council's existing processes, e.g. consenting made easy.

Planning, land use and consenting – Decision-making considerations (97)

55. UDA development plans prioritise the strategic objectives of the development project first, then RMA principles. The council recommends the requirements of Part 2 remain the over-riding consideration (97). In the event development plans contain land use regulations they should be required to adopt the same protection for all RMA section 6 matters as district plans.
56. It is unclear how urban development (as a matter of national importance) can assume a national value which overrides enshrined and tested matters of national importance as per Part 2 RMA. The National Policy Statement – Urban Development Capacity provides policy direction.
57. RMA Part 2 matters relating specifically to Māori and Māori interests and concerns have been prepared to reflect the importance of these matters for Māori and the nation. There is a concern that the proposals undermine these specific matters and are contrary to the Treaty covenant the Crown holds with Māori (97).
58. The council seeks clarification regarding Māori involvement have with the development project including contributing to developing the strategic objectives. Engagement needs to occur at the right level of Iwi governance and with the right Iwi, Hapū, Whanau. Understanding relationships and dynamics of Māori is a must to undertake meaningful engagement.

Planning, land use and consenting - Role of existing RMA instruments and entities (98-100)

59. Proposals 98, 101, 102 provide for an alternative planning approach and assign activity classifications to elements of the development project. Introducing a dual system is both unnecessary and too complex when the operative district plan should suffice. The council notes the RMA amendments are intended to facilitate faster plan-making (including any plan changes required by a UDA) and we consider the following alternative as better to that proposed:
- a. Limit scope of UDA regulatory plan-making to land use provisions only.^[2] Enabling regional plans and regional policy statements to be set aside would require a development plan to be very comprehensive, having to adequately deal with a very wide range of matters all of which would take longer to prepare, and be less likely to integrate with the Regional Policy Statement, Regional Plan and the District Plan, and cut across provisions settled after multiple parties and interests have participated in plan-making.

^[2] Section 9(3) RMA 1991.

^[2] Section 9(3) RMA 1991.

b. Utilise a technique to layer the development plan over existing district plan provisions in the same manner as the AUP does with precincts. Policies and rules to enable the development project's strategic objectives would be better integrated and a development plan need not contain as much material. The risk of omissions would be minimised. Having the local planning document form a starting point would be beneficial in ensuring local environment issues inform the development plan.

60. Enabling the UDA to veto resource consents or impose consent conditions will ensure the strategic objectives for the project area are not fettered or stopped by inappropriate development occurring before the Development Plan is in place. However, this new process will require additional administrative tasks both for councils and any UDA. There are administrative and resourcing issues associated with this proposed veto right. The council recommends that the process and time constraints is set out clearly (100).

61. The council also seeks clarification regarding whether the UDA or relevant territorial authority would be the decision maker in relation to existing designations within the project area. For example, whether they are rolled over into the development plan or not.

Planning, land use and consenting - Development plan (proposals 101-104)

62. The content list for a Development Plan in Proposals 102, 103 and 104 appears comprehensive. In particular, the council seeks to ensure RMA Part 2 heritage and areas of significance matters are recognised under Proposal 102 (b).

Planning, land use and consenting - Consenting and enforcement (105-107)

63. Proposals 105 and 106 to utilise independent commissioners for a UDA's own development applications only addresses the determination of those applications. The council seeks clarity regarding who performs the evaluation, reporting and recommending tasks that lead to the independent commissioners' decision-making. If this work is to be done by the local authority and not by the UDA. We note that this is duplicative, and would require staff to administer another two sets of processes (A and B as per section six of the discussion document) and an additional development plan for each project area.

64. If a UDA outside the council group takes over consenting powers there is a great deal of administration and co-ordination of computing, records and GIS systems that will be required between the UDC and the council. The co-ordination of which will need to be resourced. The cost of the administrative set up will either have to be borne by the rate payer through the council or the beneficiaries of development through UDA charging. The costs of the administration should not be under estimated, for example, deposit systems, costs recovery, fees setting, staff training, legal advice, templates and reporting structures. This is the cost of setting up a new business and should be factored into initial funding of the UDA. Council's size and jurisdiction provides that these costs are reduced, this is an on-going issue for many councils and will be an additional costs to doing development in a UDA.

Planning, land use and consenting - Designations and heritage orders (110-11)

65. The council supports the proposal the requiring authority, e.g. Auckland Transport, will have the ability to object to the removal of a designation through the development plan objection process (110). However, the council has concerns that a requiring authority's

designations are not automatically included in UDA development plans and can be removed.

66. A robust, transparent, early engagement and meaningful and informed process with Māori must be part of the process to roll over, remove or create a new designation. This is to ensure matters related to Māori cultural heritage are responded to in the most appropriate way as determined by Māori. For example, where Māori cultural heritage is affected, independent commissioners would require expertise in the area of Māori cultural values. The amendments to the RMA require local authorities to consult Iwi and appoint commissioner with understanding of Tikanga Māori where Iwi say this is appropriate.
67. District and regional planning instruments have been prepared in conjunction with Māori inputs, and reflect relationships and associations that are of value for Māori and local government. In addition, given that Māori interests are rarely at the national level (other than at political party level), these relationships and associations relate specifically to those groups rohe (boundaries)/takiwā (territory)/area of influence and the particular local government agencies/planning instruments that apply to the local governance jurisdiction – most often developed over time, involving significant trust and built on important relationships (98, 101, 102, 105, 106, 108).

Section 7: Infrastructure (Proposals 112-131)

68. Key benefits of the UDA proposal are the ability for a UDA to master plan an area and then develop both the public and private realm within. For example, Wynyard Quarter is a successful example of the Council Group delegating a range of functions (i.e. design, planning and construction of parks and open space, buildings) which are normally undertaken across the Group to a single council entity. The local infrastructure in Wynyard Quarter has been able to be designed and located in such way that it complements the development occurring on adjacent sites.
69. At the higher level this ensures the key benefit of a UDA can be achieved – that is as a catalyst for urban regeneration of an area, with public realm works being established ahead of the development of private sites. This is a critical factor in development areas which are presently not seen as being market-attractive and provide investment confidence to the private sector.
70. The comments above support the UDA document's approach to local infrastructure, however the proposition regarding trunk infrastructure is not as clearly resolved. In a city of Auckland's scale, with acknowledged shortfalls in existing trunk infrastructure (e.g. roads, rail) it is unlikely to be cost-effective or efficient for the specific requirements for a UDA project area to be prioritised over the regional growth requirements of the infrastructure network. Trunk infrastructure provision requires a substantial body of long term planning and a prioritisation of resources by the council group.
71. It will be important that the UDA is able to work closely with infrastructure providers and they will be making this point in their representations. Particular care needs to be made to avoid a situation where you have "orphan" infrastructure. That is, at the expiry of a UDA, the infrastructure should be transferred across to the appropriate Utility Provider with the appropriate funding. Infrastructure also needs to be designed and constructed to the same standard, as is required now. If not, there is a risk that infrastructure operators or local authorities will not want that asset.

72. The council has particular concerns regarding how the public transport system as a network will be addressed by a UDA in its wider consideration of the local community's needs. As proposed, a UDA is not required to consider the impact on the community outside the UDA and connection to the wider network (114).
73. The council does not support the requirement to align its long-term plans, regional land transport and public transport plans and other local government statutory planning documents with the development projects where this is not required to be achieved by the development plan/strategic objectives of the development project (123). This would result in the variation of strategic objectives across the region and a consistent planning framework. Projects should be required to align with existing strategic plans and documents. Support approach that "must not be inconsistent" with existing as provides greater flexibility, also not requiring them to be included reflects their stand-alone status.
74. There needs to be a commitment to adhere to regionally agreed priorities where known, if there is deviation from these e.g. bringing a project forward, then it needs to demonstrate the benefit and mitigate problems. These may include changes to funding, changes to benefits from projects, ripple effects on network planning. The prioritisation of funding for UDAs may be at expense of higher priority projects.
75. The council does not support truncating processes to simplify and shorten them and make them more efficient, without addressing the greater the risk that individual concerns could be marginalised or overlooked. Any revision to the planning system, even within the context of an urban redevelopment agency, needs to keep in mind the lack of equality between participants representing different interests. In addition, the cost implications of this could be significant. This means accessing funds in the LTP and potentially redirecting funding programmes (119).
76. As part of the "bundling" of specific enabling powers, the proposition that a UDA can become a requiring authority and can access the government's National Transport fund is supported (121).

The council makes the following comments regarding the infrastructure section together with Appendix 5: Proposed responsibility for infrastructure

77. All new infrastructure should be designed and constructed to the local authorities' engineering standards.
78. The council agrees that no assets should transfer or be vested in the relevant local authority until all debt is paid down.
79. The council does not agree with Scenario 3 that a developer may vest infrastructure in entities other than the relevant local authority. All infrastructure to be local authority standard compliant and vested in the local authority once debt is paid off. This ensures equitable access to infrastructure by all residents with appropriate long term asset planning maintenance and renewal.
80. Below are four examples of the complexity of the planning and related resources required to meet Auckland's current and future needs.

Watercare

- a. Watercare supplies a total of 390 million litres of drinking water to Auckland, and 395 million litres of wastewater is treated, all to a high standard. Watercare currently services 1.4 million people living in Auckland.

- b. Under its current operating model, Watercare is well equipped to meet the demands of growth by working with the council and development community to align infrastructure delivery and timing to when and where growth is occurring, without compromising on its mission to deliver reliable, safe, low-cost and efficient water and wastewater services.
 - c. Watercare's major strategic projects are planned and staged to ensure water and wastewater networks continue to have sufficient capacity to meet demand as Auckland's population increases. Watercare prepares an Asset Management Plan ("AMP") on a three yearly cycle to inform the council's preparation of its Long Term Plan (LTP). Major new assets planned include the Hunua 4 Watermain to Khyber Reservoirs, expansion of the Waikato Water Treatment Plant, replacement of the Huia Water Treatment Plan and construction of the North Harbour 2 Watermain. If there is significant growth in some non-metropolitan areas (for example Helensville), then a large investment in securing additional water sources would be required.
 - d. The AMP outlines what infrastructure Watercare will deliver, and where, when and how much it will cost over a 20-year horizon.
 - e. Watercare's AMP is an integral element of the council's approved LTP, allocating for the first ten years \$2 billion for wastewater, and another \$2.2 billion for the second ten years for wastewater. For water, the transmission and network provision is \$1.4 billion in the first ten years, and \$2.1 billion in the second ten years. This will provide for capacity in its network for 195,000 new Auckland homes over the next 10 years, and beyond. Part of this planning process includes making the water supply and wastewater network more resilient through increased connectivity across the region.
 - f. Providing infrastructure or picking up operational costs for ad hoc and unsequenced new development impacts on other projects and spreads funding resources thinly across the region.
 - g. A planned progression of expansion is needed that builds incrementally, to include urban brownfields and intensification areas with existing infrastructure capacity as well as greenfields areas where new provision is necessary. This applies equally across transport and water infrastructure.
81. In addition, the current transport funding process requires long term planning by Auckland Transport; preparation of the Regional Land Transport Plan (RLTP) has a lead time of about 18 months from initiation through consultation to adoption. The RLTP is then in effect for three years. The council LTP also has a long lead-in time and is also in force for three years and has a 10-year planning horizon. It is difficult for transport funding to respond to the demands of accelerated development, of SHAs, for example, that may not have been anticipated during plan preparation.
82. Proposals would require agreement in relation to state highways and railway but not major arterials. At a minimum Auckland Transport recommends that there is early agreement on changes to the arterial network and public transport because of significant network impact (125).

Two examples relating to the current development at Hobsonville and the proposed Huapai SHA are provided below.

Huapai

83. Development proposed as a greenfields SHA at Huapai will incur significant costs to upgrade the existing transport network to handle traffic from the proposed 1200 new dwellings. For example, upgrading the intersection of SH16 and local roads and the rail crossing is estimated to cost around \$7.05 million (see picture Attachment 2). This is in addition to upgrades of local roads connecting with the development and possible 4-

laning of SH16 by NZTA between Huapai and Kumeu – approximately an additional 1 km. The currently proposed 4-laning between Kumeu and Brigham Creek (approximately 5.5 kms) is estimated to cost \$100 million.

84. Auckland Transport will become responsible for additional annual operating costs associated with both the additional publicly provided infrastructure as well as the vested infrastructure which, while unresolved at this stage, will be significant. At this stage an estimated cost is not available. It is expected that additional public transport provision will be required with resulting additional operational costs.

Hobsonville

At Hobsonville additional housing including an SHA development is being provided. In addition to the extension of an existing bus service (in length and frequency) Auckland Transport has introduced a peak-hours only ferry service to support this growth. A ferry terminal has been built at a cost to AT of \$3.2 million and morning and evening services are currently provided. As current fares cover only 16% of the total operating costs, AT subsidises the service at a current annual net cost of around \$450,000. As development continues, increased demand will require additional services. Growth in patronage will offset operating costs, to some extent. Provision of expanded services creates additional operating costs: the Auckland Transport Ferry Development Plan estimates the potential gross cost of gradually adding trips to provide an all-day, all week timetable could reach a total of around \$1.0 million by 2026.

Whenuapai structure plan

85. The development of the Whenuapai Structure Plan was the first of many structure plans that will be prepared under the Auckland Unitary Plan (Operative in Part) (AUP). The Structure Plan identifies the future land use pattern for the area, and the appropriate form of development including the provision of the transport network, underground services and social infrastructure that will serve the future population. It identifies areas for residential development (at various densities), the location of retail centres and business land, and the relationship between these areas and public open space, community facilities and the Upper Waitemata Harbour. The Structure Plan also identifies some constraints on urban development, in the form of the capacity of the transport network and other infrastructure, and environmental matters such as the management of storm water.
86. The next step is to rezone land within the structure plan area to become urban zones that enable subdivision and land use to occur. This rezoning is accompanied by a precinct that manages specific environmental issues and constraints. The draft Plan Change area is land that was previously identified as Stages 1A-1E in the Whenuapai Structure Plan. The draft Plan Change is approximately 360 hectares, and comprises 82 hectares of commercial land (providing employment for approximately 2750 people) and has development capacity for approximately 4,500 - 6,000 houses in the land zoned for residential activities.
87. As a comparison, the Special Housing Area in Whenuapai (known as Whenuapai Precincts 1 and 2) will provide approximately 850 houses over the next eight years. As a further comparison, there will also be over 4000 houses at Hobsonville Point by the time construction is completed there.
88. The overall staff resourcing required approximately 30 staff from the council, Watercare and Auckland Transport from February and September 2016 to develop the structure plan, collectively contributing approximately 2000 hours of staff time. During this period, the council and Auckland Transport also engaged several consultants that provided technical advice totalling \$466,890.00.

Section 8: Funding and financing - Proposals 132 - 145

Comments

89. The council supports the financing and funding mechanisms proposed for UDAs. The UDA structure provides a vehicle for additional capital beyond that which the council can support to be made available for investment in infrastructure. The funding mechanisms proposed, targeted rates and development contributions are the same as those presently available to the council and we consider their proposed use appropriate.

Financing

90. The inability to commit funding to new projects to support new development is a significant issue for the council. Whilst the council has a range of financing sources and the ability to borrow directly or indirectly and "in substance", it cannot do so without potentially impacting its external credit rating. The implications of a credit rating downgrade would be to increase borrowing costs, reduce access to international debt markets and, through the Local Government Funding Agency, impact the credit ratings for New Zealand local government sector as a whole.

91. UDA arrangements for the provision of infrastructure (including elements related to asset ownership, operational contracting and financing) need to be able to be accommodated within the council's debt to revenue limit (as assessed by the Standard and Poor's credit rating agency).

Funding

92. The council recommends that MBIE considers what processes and controls will apply to a UDA where it seeks to apply targeted rates to properties that it does not own that may benefit from infrastructure investments. The application of targeted rates in these circumstances may offer important incentive and revenue security benefits to the UDA but involve an element of compulsion. Councils are required to consult extensively before applying rates and must do so within the scope of the matters they are required to consider under s101(3) of the Local Government Act 2002. It is not clear how the UDA's power to rate land owners will be tempered.

93. The council considers that any legislation to introduce UDAs should provide for some amendments to rating legislation for the application of rates by UDAs and the council when they are being applied to growth infrastructure. The proposed amendments are:

- providing for infrastructure targeted rates to be set at any time rather solely as part of an annual or long-term plan. This would recognise that the contracting and negotiation process with the private sector need not follow a set annual time frame
- providing for infrastructure targeted rates to be set for a period greater than a single year (but still allowing for adjustment to reflect changes in underlying costs e.g. capital cost overruns)
- allowing valuation in best potential use rather than current possible use to be the basis for land valuation for the application of infrastructure targeted rates – land value captures more of the differences between properties than land area. The council has to use land area at present because valuation rules/legislation requires valuation of land on the basis of what it can be used for now i.e. before infrastructure investment
- allowing the use of value change as a basis for setting infrastructure targeted rates.

Section 9: Māori interests in urban development and land use (proposals 146-169)

94. The council supports the proposal that a UDA is bound to uphold any co-governance arrangements established through Treaty settlements, even where those arrangements refer to planning and consenting frameworks that have been replaced under the proposed legislation (150). This should also include any co-governance/co-management arrangements that have arisen outside of treaty settlements. Further clarification is sought regarding how future co-governance/co-management agreements are dealt with, given that they won't exist prior to a proposed development plan.
95. There are potential issues for Mataawaka Māori regarding the location of urban marae as they may not be associated with Māori land or treaty settlement land. There are often on a public open space reserve, and could be affected by the proposals around reserves.
96. The council supports in principle proposal 151, where there is proposal to change the processes required under Te Ture Whenua Māori Act 1993 (or its successor). The council notes, however, that this may need to be reviewed in light of amendments to the Te Ture Whenua Bill currently underway.
97. The council and its CCOs have well established frameworks and mechanisms to engage with Māori, as set out in their respective Statements of Intent. The council supports maintaining these relationships and ensuring that Māori outcomes are identified through ongoing engagement with Mana Whenua and Mataawaka Māori.
98. The council and CCOs are in discussions with many iwi across Auckland on infrastructure project. There is concern that the UDA process could affect these discussions and existing relationships. At the very least, the council would expect UDA to follow through with commitments made to mana whenua and, for example, use tools such as the Engagement Framework for discussions with mana whenua that Auckland Transport uses on transport projects.

Section 10: Other matters

A. Criteria or thresholds for selecting urban development projects

B. The role of TAs

99. The legislation needs to respond to the Auckland situation, where Auckland Transport has the road controlling authority - whereas elsewhere the council could veto based on issues around transport, it is unclear how Auckland Transport would exercise its rights to address such issues.

C. Transitional matters: establishing and disestablishing an urban development project

The council supports proposals requiring that can't be vested if debt remains unless by agreement of the receiving authority. It is important to protect the TA / CCOs from inheriting bad debt.

However, there is a significant risk (particularly over a long time period) that is UDA goes under and the only agency able to take over is a public entity such as Auckland Transport. Although the government can assign a new UDA or entity it may be difficult to find one that wants to pick up bad debt.

The council seeks clarification regarding whether the contractual liabilities and warranties post project closure are adequately understood.

D. Market provision of infrastructure

The council recognises the potential value that the role of UDAs to support urban development projects that offer benefits to communities, including increasing the amount of affordable housing and the provision of necessary infrastructure.

The council support new tools for paying for infrastructure, including annual charges that can be given to a private entity to raise debt are supported. Bringing funding forward for projects where projects are aligned with the strategic objectives of the council creates opportunities.

Appendix 1: Panuku Case Studies (TBC)

DRAFT

Urban Development Authorities

Don Munro, *Manager Strategic Policy Integration*

April 2017



Strategic Themes Alignment

Prioritise rapid, high frequency public transport

No alignment

Transform and elevate customer focus and experience

Accelerates urban development

Build network optimisation and resilience

Potentially supports the accelerated delivery of infrastructure to support urban development

Ensure a sustainable funding model

With appropriate checks and balances a UDA could release alternative funding for infrastructure.

Develop creative, adaptive, innovative implementation

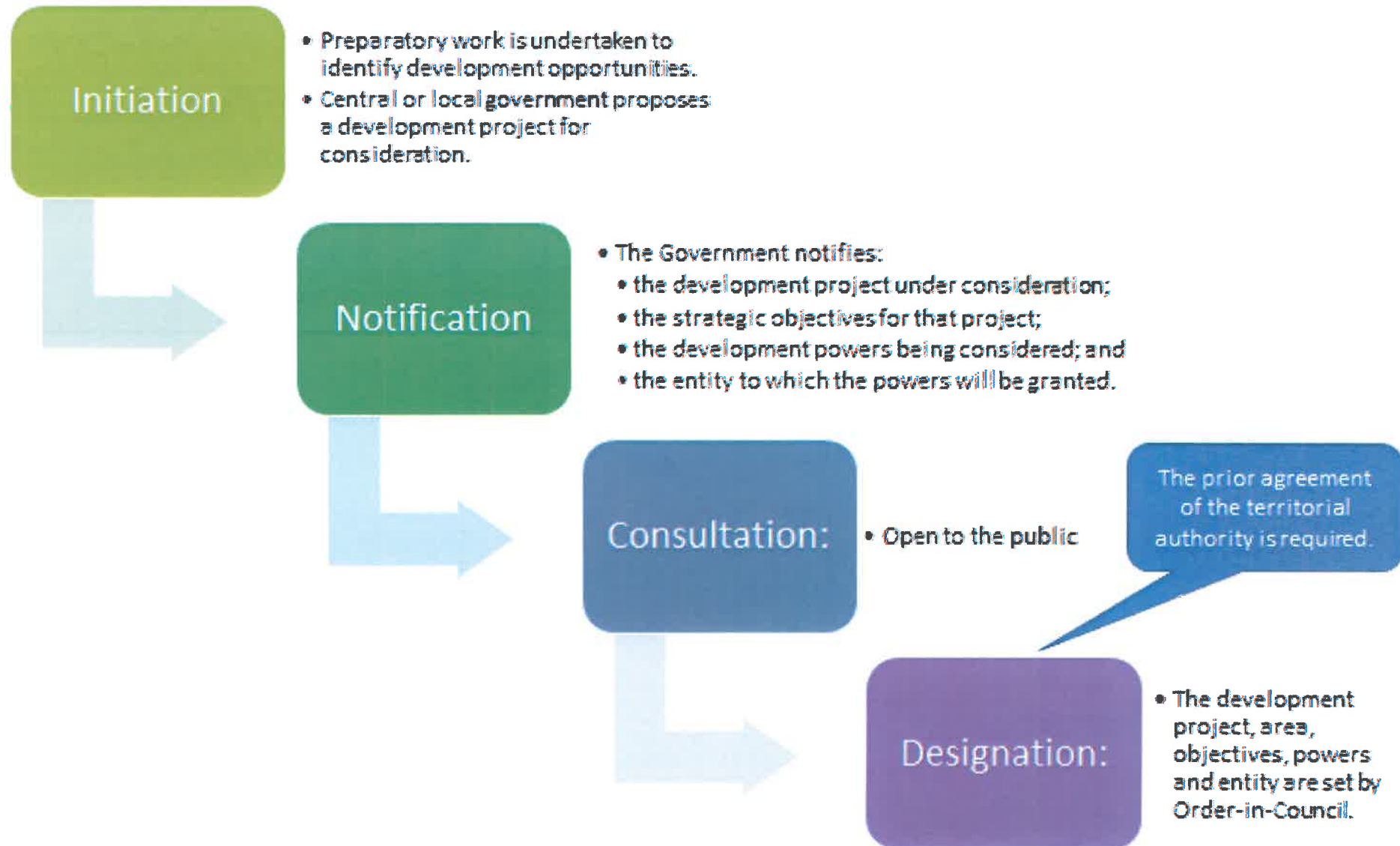
This is an creative and adaptive approach to accelerating urban development with supporting infrastructure.

Overview

- Government proposal to allow significant urban development projects to be built more quickly.
- Response to perceived failure of planning regulation and market to enable/deliver urban development at scale with infrastructure.
- Timeframes:
 - Public submissions close 19 May.
 - Cabinet paper by July.
 - 9 – 12 months legal drafting.
 - Bill to Parliament second quarter 2018.
 - Select Committee fourth quarter 2018.

About the Proposal

- Urban Development Authorities (UDA) to be established for selected development projects with access to a tool kit of special powers, including:
 - Land acquisition and assembly powers.
 - Funding and Finance.
 - Planning and consenting powers.
 - Infrastructure powers – incl. wide transport powers.
- Government and Territorial Authorities can propose development projects, and **must** agree. Establishment process includes consultation with infrastructure providers.
- UDA activities to be guided by Development Plans.



Implications for AT

- Support concept of UDAs, particularly ability to consolidate land and potential for UDAs to fast-track developments that align with AT's strategic direction and investment.
- Document does not reflect Auckland situation where AT has transport powers of a TA and is the Road Controlling Authority.
- Establishment process needs to ensure the right projects are chosen with right powers – checks and balances.
- Requirement to align strategic plans, incl. RPTP, with UDA strategic objectives – potential risk - need converse consideration to align UDA objectives with regional strategies.
- Transport powers being given to UDAs, particularly ability to alter networks, vest private roads and change PT services.

Initial AC Position Points

- These were not available at the time of finalising this paper and will be circulated separately once known.

Next Steps

- Council submission to be drafted early-mid April. Sign-off by the Planning Committee on 2 May.
- AT currently working to feed into the Council submission and is generally well aligned.
- **Recommend:**
- AT provide Council a letter of support to append to its submission - highlight particular issues of importance to AT
- **Risk** – Final AC submission diverges from AT issues.

B. Stakeholder Guide: Infrastructure and utility providers

Why is the Government proposing new legislation?

As our population grows, the Government wants to accelerate the building of new communities and the revitalisation of existing urban areas to deliver vibrant places to live and work. Rejuvenating our cities requires flexibility to plan and develop new communities for current and future generations.

In its discussion document, the Government is proposing a tool-kit of enabling powers that could be used to streamline and speed up particular large scale projects, such as suburb-wide regeneration. This will accelerate urban development projects that offer benefits to communities, including increasing the amount of affordable housing and the provision of necessary infrastructure. The projects would be planned and facilitated by publicly-controlled urban development authorities, potentially in partnership with private companies and/or landowners.

The intention is to support nationally or locally significant development projects that are complex or strategically important. A range of urban development projects will be eligible for consideration, including housing, commercial and associated infrastructure projects.

Where will it happen?

Only land that is already within an urban area, or that is sufficiently close to an urban area to be able to service its growth in future (whether or not it connects with the existing built-up area), will potentially be affected by the proposed legislation. The intention is to support nationally or locally significant development projects that are complex or strategically important. A range of urban development projects will be eligible for consideration, including housing, commercial and associated infrastructure projects. Projects cannot cover an entire town or city, nor can they be standalone infrastructure projects.

Proposed process

Initiating development projects (Proposals 1 - 21)

Section 3 outlines the process for identifying an urban development project, which starts with either central or local government initiating a proposal. Territorial authorities can recommend that the Government consider a particular development project for access to powers under the new legislation, or the Government itself can initiate the process. Private organisations, developers or other groups, such as iwi organisations and Māori land trusts, will be able to approach central or local government, as partners, to consider supporting significant developments that these groups wish to lead on land in which they have an interest.

The first step towards establishing a development project is an initial assessment of its potential. Officials would review the opportunity, identify all the land in the proposed project area and the challenges the project presents.

Pre-establishment consultation

If the initial assessment shows that the proposed development project has promise, the second step is to consult the public on the core elements of the proposal including:

Urban development authorities discussion document

- the strategic objectives of the project, including any public good outcomes the Government would require as a condition of development;
- the boundaries of the proposed project area;
- the development powers that government proposes to grant to achieve the strategic objectives, which may include powers to acquire and amalgamate land, powers relating to reserves, etc.
- the urban development authority that will be granted those powers; and
- the entity that will be accountable for delivering the strategic objectives (which may or may not be the same entity as the urban development authority).

The Government (for projects it initiates) or the Mayor of the relevant territorial authority (for locally initiated projects) must seek the public's feedback on the proposal, in particular from: relevant iwi and hapū groups; existing private and public property owners; requiring authorities; and where they already exist, with the entities that are proposed to lead a development and be the urban development authority, such as the Tāmaki Regeneration Company.

Establishing a development project (Proposals 22 - 33)

The third step is to formally establish a development project. One of the requirements of this step is to set the project's strategic objectives. These become the paramount guide to decision-making for the project and will take precedence over the purpose and principles of the Resource Management Act 1991.

If more particular protections are needed in any one case, the Government will also be empowered to stipulate binding conditions when it establishes the project.

Urban development authorities must remain in public control and have a governance board that is accountable to Ministers and/or local government. Subject to the outcome of the pre-establishment consultation, and securing the agreement of the relevant territorial authority(s), the Minister will make the final decision to recommend establishing the project to the Governor-General, who would give assent via an Order-in-Council.

No appeal would be available on the decision to formally establish a development project.

Preparation of a development plan (Proposals 34 - 40)

The next step is for the urban development authority to develop and publish a draft development plan, within a specified timeframe. In preparing this plan, the urban development authority would be free to engage with the community as it considers appropriate.

During preparation of the development plan, the urban development authority must confirm which landowners have elected to include their land in a development project, what land subject to a right of first refusal is in the area, whether relevant landowners wish to develop their land as part of the project and how Māori cultural interests will be addressed in the development plan.

Consultation on the draft development plan

The fifth step is for the urban development authority to publish a draft development plan for public consultation. Any interested member of the public can make written submissions in response to the draft,

including infrastructure and network utility providers whose existing infrastructure systems may be connected to or located on land identified for a development project.

As affected persons, infrastructure and network utility providers will also have the right to object to any aspect of the development plan that the urban development authority recommends. Those objections will be heard by independent commissioners, who can recommend that the responsible Minister change the development plan before it is approved.

Approval of the development plan (Proposals 43 - 54)

If there are no objections, the urban development authority recommends a final development plan to the Minister. If there are objections, the independent commissioners make their recommendations to the Minister on potential changes. If a variation to the development plan is required, the same process for development and approval applies, which includes another round of public consultation on the proposal.

Having considered the recommendations and any advice from the independent commissioners (if objections were received), the Minister approves the plan, which is then published and the proposed changes come into effect.

The Minister's decision is final. The development plan that the Minister approves will not be subject to appeal on its merits to the Environment Court.

Proposed powers

Assembling land for an urban development project (Proposals 72 - 89)

Section 5 sets out the proposed powers enabling land to be assembled for an urban development project, which include acquiring Crown or council-owned land and purchasing land from private owners.

The existing powers of the Public Works Act 1981 would continue to apply. All land currently subject to those powers, including Māori freehold land, would continue to be subject to these existing powers, whether or not the land is included or excluded from a development project. Currently, central or local government already has the power to acquire land by compulsion for a range of public works, including for housing purposes and for urban renewal.

However, other than the urban development authority itself, no public agency will be able to exercise powers of compulsory acquisition over land included within a development project (including Māori freehold land) without the prior approval of the Minister responsible for the new legislation.

The proposal is not to grant compulsory acquisition powers themselves, but to enable urban development authorities to apply to the Minister for Land Information for the Minister to exercise such powers, provided the circumstances meet the existing tests under the Public Works Act 1981. The only change in the proposed legislation is who can access the benefit of the powers, rather than either the extent of the public purposes for which land can be taken or who the final decision-maker is.

Land that has been excluded from a development project could still be acquired by the Crown or by a territorial authority under their existing powers, including at the instigation of other public agencies that currently have the right to ask for compulsory acquisition. In contrast, with the exception of requiring

authority powers noted later in this guide, the urban development authority's ability to ask for compulsory acquisition cannot apply to land outside the project area.

While enabling urban development authorities to request that these powers be exercised may increase the number of occasions it is used compared to the status quo, their use will still be subject to all of the existing statutory protections. As noted in section 5, it is expected that the Public Works Act 1981 would only be used as a last resort for urban development projects.

Planning and resource consenting (Proposals 97 - 111)

The delays, uncertainties and costs of current plan change and resource consent processes (including appeal processes) reduce the number and size of projects that are commercially feasible. These issues are particularly challenging for large or complex developments in existing urban areas.

To achieve the scale and pace of development necessary, further powers need to be available for significant urban development projects, including accelerated planning and consenting powers and the ability for an urban development authority to be the resource consenting authority.

In Section 6, the Government proposes that, in appropriate cases, the development plan can override existing and proposed district or regional plans, or parts of them. This would not happen automatically, but only in circumstances where the Government believes that the public benefit of the project is sufficiently high to justify it. This would streamline the planning and consent processes required for approving the construction of new network utility infrastructure within a development project area.

How this legislation could affect infrastructure and utility providers

Currently, powers relating to infrastructure planning, provision, funding and financing are spread across at least eight different statutes. Individually, private developers, local territorial authorities and central government do not have access to the full range of powers to provide the additional infrastructure required to support new large and complex urban developments, and the powers that do exist are slow and complex.

Infrastructure powers (Proposals 112 – 118)

Section 7 (and its associated summary table) identifies proposed powers that an urban development authority could be granted to contract or carry out the planning and construction work to develop the infrastructure required for a project. This includes providing new local infrastructure systems within development project areas that would service individual areas or households as well as new trunk or network systems or plant, outside of a development area, that may be required to support the increased number of households and businesses. These powers would enable an urban development authority to create, stop, move, build and/or alter:

- local roads, connections to state highways and any road-related infrastructure such as street lights, signage, footpaths and cycle-ways;
- water supply, wastewater, storm water and land drainage infrastructure systems, including related trunk infrastructure and plant;
- public transport facilities and services, together with network infrastructure associated with transport, including services such as timetabled bus or rail routes and any ancillary infrastructure such as bus shelters, interchanges, park-and-ride facilities and railway stations.

An urban development authority would also be empowered to contract with or require that network utility operators stop, build, move and/or alter electricity, gas, telecommunications or other privately owned utility services as required for a development area.

In certain circumstances, it may be necessary for the urban development authority to undertake this work itself if the network utility operator refuses or fails to do the work within a reasonable time. This power would only be exercised in exceptional circumstances and in consultation with the relevant provider to ensure that network integrity, performance, durability and quality standards are maintained.

Independent method for providing infrastructure (Proposals 119 – 122)

Urban development projects may need an independent method for providing infrastructure where the necessary infrastructure has not been included in local government plans, is needed sooner, or is out of sequence with existing infrastructure plans. This may also include facilitating the development of supporting trunk infrastructure outside of the main project area, including roads, public transport, electricity transmission lines, telecommunications, gas and water services.

The Government proposes that urban development authorities can be given the status of a ‘requiring authority’ under the Resource Management Act 1991,¹ which would enable it to designate land for specific infrastructure requirements and to ask the Crown to exercise powers of compulsory acquisition over that land for those purposes if necessary.² The latter compulsory acquisition power would not extend to wider public works, such as housing or urban renewal, and the decision-maker in these circumstances would be the Minister for Land Information.

To support the construction of major local roads or connections to state highways within its project area, the Government also proposes to enable urban development authorities to become approved public organisations under the Land Transport Management Act 2003. This would enable them to access the Government’s National Land Transport Fund and associated co-investment funding programme.

Alignment with local government planning (Proposals 123 – 124)

The Government proposes to enable an urban development authority to require that local government infrastructure and transport plans are consistent with the strategic objectives of any development projects within their area. This would provide greater certainty and consistency for both developers and territorial authorities over the strategic direction for the identified urban areas and also mitigate the potential risk that these plans compromise the proposed development or vice versa.

Until the development plan is approved and notified, the current rules in the relevant regional and district plans continue to apply. If the urban development authority is granted planning and consenting powers, then in the period before the development plan takes effect, it can veto or require conditions to be attached to any resource consent or plan change that the relevant territorial authority or regional council is considering in respect of the development project area, provided it is necessary to realise the development project’s strategic objectives.

Powers are also proposed to enable an urban development authority to have local government by-laws suspended, amended or created to remove any specific restrictions or constraints to developing infrastructure

¹ See section 166-168, Resource Management Act 1991.

² See section 186, Resource Management Act 1991.

for a project. These powers would be limited to sites or activities that are related to specific development project areas and would not include any by-laws relating to road safety.

Performance requirements and standards (Proposals 125 – 126)

Connecting seamlessly into the existing city-wide circulation (road, rail, bus routes and land transport services) and reticulation (water, wastewater, storm water, land drainage, gas, telecommunications and power) networks and systems will be an important part of providing new physical infrastructure for development projects.

The infrastructure for a development project will need to meet the system performance requirements and levels of service of the existing or planned networks. The infrastructure construction and quality standards for a development project are to be established at the development plan stage. At a minimum, these standards must meet the relevant New Zealand Standards, such as NZS 4404:2010 (Land development and subdivision infrastructure), or the objectives of the relevant territorial authority's or network utility provider's infrastructure design codes of practice.

It is proposed that private network utility operators will continue to have responsibility for developing their infrastructure networks to accommodate the requirements of new development projects. Where this does not occur and the urban development authority extends these networks, the performance requirements and standards of the existing systems are to be maintained.

Collaboration will be required with the relevant territorial authority and other providers to ensure that the proposed infrastructure will meet these performance requirements and standards. In addition, the infrastructure will need to be operated and maintained in a manner which ensures these standards will continue to be met over time and the costs are borne by the users or beneficiaries of that infrastructure.

The new legislation proposes that urban development authorities are to consult and collaborate with, and in some cases seek the agreement of, the relevant territorial authority, government agencies (such as the New Zealand Transport Agency) or network utility operators before exercising any powers that could affect an existing service provider's infrastructure networks.

Dealing with infrastructure when winding-up a development project (Proposals 127 – 130)

In advance of disestablishment, decisions will need to be made regarding any assets, liabilities, rights, designations or revenue streams that need to be distributed to appropriate receiving organisations. These organisations may include the relevant territorial authority, regional council, government agencies or private providers. They would become the long-term owners of relevant land, infrastructure systems and services, and would be responsible for the ongoing operations, maintenance, revenue streams and debt re-payments, together with the re-integration of the land use regulations into the wider district and regional plans.

New local infrastructure (of the sort usually provided in a new subdivision) would automatically vest in the relevant territorial authority through the existing processes for approval of sub-division consents under the RMA. For other infrastructure, the proposals cover a range of circumstances, depending on whether the infrastructure is publicly or privately owned, and whether it still has associated debt.

A table summarising the potential responsibility for new and existing infrastructure in three scenarios under the proposals is contained in Appendix 5 of the discussion document.

Infrastructure funding (Proposals 131 – 144)

An urban development authority will require access to a broad range of powers to encourage investment in, and independently fund, new infrastructure. Section 8 proposes powers that would enable urban development authorities to buy, sell and lease buildings as well as access Crown funding and debt and equity financing. The proposed legislation would also enable an urban development authority to determine and levy a targeted infrastructure charge on properties as well as charge project specific development contributions on developers building within a development project area. Any charges will be collected by the territorial authority on behalf of the urban development authority or a private investment vehicle.

How can I have my say on the proposed legislation?

More information, including the full version of the discussion document, is available [here](#) on MBIE's website.