Chairperson and Committee Members
STRATEGY & POLICY COMMITTEE

25 MAY 2017

Meeting Status: **Public**

Purpose of Report: For Decision

URBAN DEVELOPMENT AUTHORITIES SUBMISSION

PURPOSE OF REPORT

1 This report seeks the Committee's approval of a submission to the Ministry of Business, Innovation and Employment (MBIE) Urban Development Authorities (UDA) discussion document (February 2017).

DELEGATION

2 Under B1 of the Governance Structure and Delegations for the 2016-2019 Triennium, the Strategy and Policy Committee has responsibility for:

- Signing off any submission to an external agency or body.

BACKGROUND

3 The Government is proposing new legislation that would allow nationally or locally significant urban development projects to be progressed more quickly through UDAs.

4 The UDA would be a body comprising both the Crown and Territorial Authorities with the possibility of private partners for large scale urban renewal or development i.e. Tamaki Regeneration or Hobsonville.

5 The discussion document identifies the framework for setting up UDAs, as well as the range of potential powers that could be devolved to them.

6 It proposes the introduction of a range of enabling powers that could be used to streamline and speed up specific large scale projects, such as suburb-wide regeneration. Only land that is already within an urban area, or that is sufficiently close to an urban area that it may in future service that area, will be affected by the proposed legislation.

7 The projects would be planned and facilitated by publicly-controlled UDAs, potentially in partnership with private companies and/or landowners. Central government and territorial authorities would have to work together to identify and agree on urban development projects, and would consult the public before granting the relevant enabling powers.

8 The Government would decide on the form of the UDA itself and which enabling powers could be used for particular projects; not all powers would be granted for all projects. The intention for UDAs is that they would be publicly controlled and could have a number of potential powers, including in relation to:

- Land – the ability to assemble parcels of land, including existing compulsory acquisition powers under the Public Works Act;

- Planning and resource consenting – powers to override existing and proposed district and regional plans, and streamlined consenting processes;
- Infrastructure – powers to plan and build infrastructure such as roads, water pipes and reserves; and
- Funding – powers to buy, sell and lease buildings; borrow to fund infrastructure; and levy charges to cover infrastructure costs.

9 It is also proposed that territorial authorities have a power of veto. As outlined below, it is considered important to strongly support this provision as without it decisions on development could be made for Kapiti Coast District Council by another governing body.

10 Whilst the new legislation could provide opportunities to produce well planned and serviced urban development, there are a number of concerns with the proposals, as summarised below and outlined in the attached submission. Kapiti District has been identified as a medium growth area within the new NPS for Urban Development Capacity, this therefore indicates that the possibility of a development of the scale envisaged in the UDA could occur but at this stage appears to be unlikely in the next 10 years.

11 Submissions on the discussion document closed on 19 May 2017. An interim submission has been provided to the MBIE, with the understanding that a final submission will be provided once Council has had an opportunity to discuss this.

12 A brief summary of the interim submission is provided below, and the full draft submission can be seen at Attachment 1.

13 A summary of the proposed legislation has also been produced for territorial authorities by MBIE and can be seen at Attachment 2 to this report. Attachment 3 to this report provides a more detailed summary of the UDA discussion document as well as an identification of changes over the status quo and effects of the proposed changes.

ISSUES

14 The concept of effectively master planning new development is to be supported, however, it is considered that that there are some issues and risks that would result from the proposals should they be implemented in their current format or if some proposals are not continued. These are set out in detail below but include:

- The need for clearer identification of issues that the proposals are trying to resolve;
- Territorial authorities' - right of veto and not being identified as an affected party;
- Concerns that the principles of Part 2 of the Resource Management Act 1991 (RMA) and relevant regional and district plans may be lost if the strategic objectives of the development plan are in conflict;
- Lack of definitions in respect of affordable housing and an urban area;
- The need to recognise and maintain Māori rights and values;
- Questions over resource consent processes;
- The proposal relating to funding and financing, particularly targeted rates;
- Confusion about the roles of various parties involved in the UDA;

- Concerns about resourcing (both staff and financial implications) of the proposal;
- The lack of rights of appeal.

15 These issues are addressed in detail in the attached interim submission.

CONSIDERATIONS

Policy considerations

16 Of particular relevance to these proposal are:

- The ability for territorial authorities to ensure that current and future strategies and policies of this Council are taken into account in any Development Project planned for this area if the Strategic Objectives of the Development Project takes precedence.
- Inconsistencies in the decision making if the UDA and territorial authorities process resource consents
- The impact on long term strategic and financial planning if the authority has to respond to the needs of the UDA and infrastructure delivery to support and maintain the development.
- The lack of a right of appeal for decisions that do not accord with Councils policies.
- The inability to require development contributions, only seek for costs to be repaid through a process overseen by an independent commissioner.

Legal considerations

17 There are no legal considerations at this time.

Financial considerations

18 There are no financial considerations at this time.

Tāngata whenua considerations

19 As noted above there is a concern that Māori rights may be eroded through the proposals and there is a need to ensure that rights and values are considered and maintained, along with the ability for iwi / hapu / whanau to be involved in decision making processes. The iwi liaison officer has been involved in the submission process and has attended a workshop with MBIE to discuss these proposals.

SIGNIFICANCE AND ENGAGEMENT

Degree of significance

20 At this stage Council is submitting on the Proposed Discussion Paper and so has a low level of significance at this stage. However, if these proposals are legislated Council will need to consider these matters further.

Consultation already undertaken

21 None

Engagement planning

22 An engagement plan is not needed to implement this decision.

Publicity

23 There are no publicity considerations at this point.

RECOMMENDATIONS

24 That the Committee approves the submission on the Urban Development Authorities discussion document (February 2017), as detailed in Attachment 1.

Report prepared by	**Approved for submission**	**Approved for submission**
Suzanne Rushmere	Kevin Currie	Sarah Stevenson
Policy Planner	**Group Manager, Regulatory Services**	**Group Manager, Strategy and Planning**

ATTACHMENTS

Attachment 1	Draft Submission
Attachment 2	A summary of the proposed legislation has been produced for territorial authorities by MBIE
Attachment 3	Detailed summary of the discussion document.

Attachment 1: Draft Submission

19 May 2017

Attention: Urban Development Authorities consultation
Construction and Housing Markets, BRM
Ministry of Business, Innovation and Employment
15 Stout Street
PO Box 1473
WELLINGTON 6140

Email: UDAConsult@mbie.govt.nz

Dear Sir

Kapiti Coast District Council Submission on the Urban Development Authorities discussion document (February 2017)

1.0 Introduction

1.1 Kāpiti Coast District Council (the Council) welcomes the opportunity to submit on the Urban Development Authority (UDA) discussion document.

1.2 Please note that this is an interim submission as the Council has not yet had the opportunity to discuss the document. The Council is scheduled to consider this discussion document and the interim submission on 25 May 2017. Following that Council meeting the final submission will be forwarded to you.

1.3 In general the Council welcomes the opportunities that this new tool could bring to effectively master plan and deliver new development projects. However, there are a number of questions around the need for an additional entity in the form of a UDA to achieve this, and its associated powers, which are discussed in our submission below.

1.4 The Council strongly supports the proposed veto that means no development project may be established without the agreement of the relevant territorial authority, and wishes to see this retained should the legislation for establishing the UDA progress.

1.5 In summary the key issues discussed in the submission include:

- The need for clearer identification of the issues that UDA are trying to resolve;
- Concerns that the principles of Part 2 of the Resource Management Act 1991 (RMA) and relevant regional and district plans may be lost if the strategic objectives of the development plan are in conflict;
- The need to recognise and maintain Māori rights and values;
- Questions over resource consent processes
- The proposal relating to funding and financing, particularly targeted rates;
- Confusion about the roles of various parties involved in the UDA;

- Concerns about resourcing (both staff and financial implications) of the proposal;
- Lack of definitions in respect of affordable housing and an urban area;
- Whether or not the power of veto will be adequate; and
- The lack of rights of appeal.

1.6 The Council is largely supportive of the submissions prepared by the Society of Local Government Managers (SOLGM) and Local Government New Zealand (LGNZ) and notes that there are a number of similar issues raised in these submissions that require consideration before the UDA proposals are progressed.

2.0 The Need for New Legislation

2.1 The Council is aware of the constraints that delay the effective and timely availability of land and the use of the UDA with access to a range of tools in one agency makes sense. The Council however considers that the development community and market environment has also resulted in the delay of development land becoming available.

2.2 Council considers that the tool kit proposed through the UDA may go some way to resolving this, however, many of the tools such as the Public Works Act are already available and delivery is still dependent on private sector appetite and funding.

2.3 Council supports the flexibility in the proposals, as the Wellington Region has a number of districts, each with its own issues. These include land availability, economic sustainability, infrastructure delivery and maintenance, natural hazards and resilience, and addressing housing need which cannot be managed through a one size fits all approach.

2.4 However, while Council is aware of some of the constraints in coordinating new development the proposals are unclear about why, in the Wellington Region, a UDA will be more beneficial than providing extended powers to territorial authorities. The regional council and each territorial council have developed regional and district plans that have been through an effective consultation and hearings process. These documents identify future growth areas in line with population projections and infrastructure provision. The Council recognises that there may be resource constraints with such an approach but these may not be any greater than having to respond to a UDA-based process. Existing resource consents processes may also be quicker where developments accord with district plans since debates regarding appropriate developments and rules have already taken place. The new stream lined provisions of the RMA will also assist in significantly reducing consent timeframes.

2.5 In addition, while UDA's have been used in countries such as Australia and the UK it is our understanding that, even with a high degree of agreement and planning consents in place, delivery is still often slower than expected. As an example, in one UK location delivery of approximately 750 new houses per year was being achieved against an annual target of 2,000 due to viability issues and the economic situation driving house sales. This was despite a significant and coordinated master planning exercise between Councils, developers and infrastructure providers such as the Highways Agency.

2.6 The issue of the definition of 'urban', and the thresholds and geographical extent of a UDA is also important. Rather than a threshold for determining whether a UDA is a valid prospect, Council supports a criteria based approach made against factors that achieve public good outcomes such as:

- The level of benefit provided by the proposal to the community versus the actual and potential effects created by the development;
- Consistency of scale within the local policy, community aspirations, projected growth and geographical context of the district;
- The ability to deliver a number of jobs and affordable housing;
- Sustainability;
- Location and connectivity in relation to existing urban areas, services and infrastructure;
- Accessibility;
- Environmental and heritage protection; and
- Tangata whenua values.

2.7 The Council agrees that rising house prices and affordability are significant issues which need to be addressed both nationally and within the Wellington region, however, no definition of affordable housing is included in the discussion document. Nor does the document demonstrate how the UDA proposals would realistically address affordability, particularly given that there is no regulatory or legislative control relating to affordable housing delivery and the ability for affordable housing to be retained in perpetuity. If the UDA is tasked with overcoming the challenge of affordability, the relationship between affordable housing delivery agencies including Housing New Zealand and the UDA needs to be carefully considered and clearly defined. This relationship is considered to be a necessary element of any successful UDA in addressing housing supply and affordability.

2.8 The Council acknowledges the fit between the UDA and the National Policy Statement on Urban Development Capacity (NPS-UDC), and the Housing Infrastructure Fund. However, providing adequate capacity does not necessarily ensure that development will take place, and the Housing Infrastructure Fund is only available for high growth areas and therefore is not available to medium growth areas such as the Kapiti Coast District.

3.0 Framework and Processes

Core Components

3.1 Council supports the requirement that territorial authorities must first agree to a development project. It is also of the view that it is important for the territorial authority to be involved in setting the strategic objectives to ensure that the community aspirations and sustainable management principles in district plans are retained in the strategic objectives.

3.2 The Council supports the requirement for public good outcomes such as the need to provide for a proportion of affordable housing in the development project. However there is no guidance on how the proportion of affordable housing should be calculated or how affordable housing can be guaranteed to remain affordable in perpetuity.

3.3 The UK government made £3.3bn available for affordable housing delivery between 2015 and 2018 via a bidding process. Without a similar level of consideration, funding and legislative control in New Zealand, it is difficult to see how affordable housing can be appropriately and adequately delivered as part of a UDA development.

3.4 The case studies in the discussion paper define affordable housing as follows:

- the National Affordable Housing Summit Group in Australia developed their definition of affordable housing as housing that is *"...reasonably adequate in standard and location for lower or middle income households and does not cost so much that a household is unlikely to be able to meet other basic needs on a sustainable basis*";
- the UK term for affordable housing includes *"social rented and intermediate housing, provided to specified eligible households whose needs are not met by the market".*

Council considers it necessary for a definition of affordable housing to be included within the UDA proposals.

Application

3.5 Council is generally supportive of the proposals regarding the application of the UDA framework, particularly in respect of central government and territorial authorities selecting development projects together. However, this requires physical and financial resources at a territorial authority level if they are to be proactive, and the Council is not certain the resourcing impact for local government of these proposals has been fully recognised.

3.6 The Council is wary as to whether a new UDA entity would be able to work in practice, particularly with regards to its relationship to existing entities and central and local government. Council considers that improved working relationships/partnerships between existing agencies has the potential to be more beneficial than adding an additional layer of complexity and bureaucracy via a UDA.

3.7 If such an entity were to be introduced it would need to be accountable to both central and local government to ensure national and local needs are met. As an overseas example, the Lincolnshire Area Strategic Planning Joint Advisory Committee was set up to consider cross boundary developments and was constituted from members of the County and District Authorities and was accountable to those authorities. It was based on principles of agreement amongst the partnership and with no decision making body having precedence over another.

Benefits

3.8 The Council supports the benefits proposals, but reiterates the concerns regarding affordable housing delivery. In addition, the speed of delivery may also depend on the rate of sales and the ability for sufficient funds for later stages of the developments to be released by sales of previous stages. This is dependent on a range of external factors including the economic situation and availability of financing and the resulting appetite for risk, all of which are not easily quantified in advance.

Processes – Establishment Stage

3.9 The Council supports the ability of territorial authorities to propose and assess development projects, particularly as this would allow better alignment with the existing strategies and policies of the territorial authority. However this ability is likely to be hampered by resource constraints within the relevant territorial authority. Stronger guidance is also required in respect of engagement with and involvement of iwi to ensure that issues regarding the Treaty of Waitangi, as well as the wider Māori world view, are captured and represented in the establishment and delivery of the development project. Similarly there is a need for better guidelines or regulatory/legislative measures in relation to consultation.

Processes – Contents of the Development Plan

3.10 In addition to concerns regarding a lack of clarity over resourcing and who is responsible for producing the development plan, the Council considers it is also necessary to consider the environmental risks. This is particularly relevant if the strategic objectives of the development plan do not take account of the principles of sustainable management contained in Part 2 of the RMA and the relevant regional and district plans.

Processes – Objections

3.11 Generally the Council is supportive of the proposed processes in establishing a development project. However, without specific guidelines on consultation, akin to those set out in the LGA or RMA, there is the potential for significant disparities on how this is carried out within and across districts and regions. This may lead to lack of effective community engagement and runs the risk of community aspirations not being met. Iwi involvement and engagement is of particular relevance, especially the ability of iwi to become involved in the development project and respond within the proposed timeframes set by a UDA.

3.12 It may be more appropriate to align consultation processes to tried and tested methods such as those outlined in the LGA or Schedule 1 of the RMA. Examples include the closing date for submissions on a proposed plan being at least 40 working days after notification.

3.13 Council also considers that decisions on the development plan should be made jointly between the Minister and the territorial authority to ensure that all environmental, iwi and local issues are adequately considered and addressed. Council is also concerned that the proposals do not recognise territorial authorities as affected parties given the impact they may have.

Processes – Approval of the Development Plan

3.14 Given the comments made throughout this submission, particularly with regards to decision making and funding, the lack of a right of appeal is not supported by the Council.

Processes – Role of Territorial Authorities

3.15 As noted above, the Council supports the veto rights outlined in the proposals that territorial authorities should be consulted by the UDA, however, we consider that the territorial authority must also be involved in decision making at approval stages of the development plan.

4.0 Urban Development Authorities

Organisational Form, Accountability and Monitoring

4.1 Further clarity around the organisational form of the UDA is required. For example, it is unclear how a UDA can be a regulator only but can also be granted development powers.

5.0 Land Assembly

Market Based Negotiations

5.1 The proposal for the UDA to be able to purchase land with the agreement of land owners and the ability to assemble land enables the development to take place in a more coordinated manner and this is supported. However, the Council considers that care should be taken to ensure that this is not at the expense of environmental and heritage protection and the ability of Māori to use their land in a manner which fulfils their requirements and the principles of kaitiakitanga.

Compulsory Acquisition

5.2 It is unclear how the proposals differ to the status quo, however, Council also acknowledges the compulsory acquisition process under the Public Works Act is not a quick process as it often involves lengthy consultation and valuation processes. In addition, the parties affected by the compulsory acquisition process have appeal rights which can add significant time to the process. This is regardless of whether or not the land is identified in the district plan as being required for a public work.

Reserves

5.3 Council supports the requirement to consult with the body that administers local and recreational reserves before these can be reclassified through the UDA, however it is unclear whether and how the result of that consultation will impact on the decision making process. There also appears to be no consideration of Māori freehold land, waahi tapu and papakainga which is of concern, as is the ability of a UDA to replace a reserve management plan that has been subject to community input and consideration of the local context.

5.4 It is noted that while the discussion document exempts nature and scientific reserves it is unclear whether or not it exempts all DOC reserves. In particular there may be a number of historic or recreation reserves of specific value to both iwi and the public that may not be classified as nature and scientific reserves. It is considered that further clarification on the types of reserves envisaged being within the scope of the UDA is necessary.

6.0 Planning, land use and consenting powers

Decision Making Considerations

6.1 It is Council's view that it is necessary to recognise Part 2 of the RMA and the matters considered and addressed through regional and district plans. In particular the assessment of effects of the development proposals and the measures that would need to be put in place to avoid, remedy and mitigate these effects as well as matters of concern to Māori.

6.2 The same is true for the centralisation of decision making in respect of the weight given to the relevant district plan and the imposition of conditions on planning powers that can be imposed by the Government. This may lead to decisions being made that are inconsistent with other planning decisions being made in the District.

6.3 Council considers that it is important to ensure that development projects give effect to the NPS documents of the RMA such as the Coastal Policy Statement and Freshwater Management. These are the documents that set the overarching policy that forms the basis of regional policy statements and plans and district plans. Territorial authorities are required to include the policies and objectives established in NPS and regional policy statements and plans, and the same should apply to UDA development plans.

Development Plan

6.4 The Council is concerned that the development project and plan is proposed to be able to override existing legislation, policies and plans such as the RMA and district plans. Instead, the development plan should be consistent with the objectives and policies identified in these documents, and this should be the starting point for the master planning exercise. District plans, for example, have been through a formal consultation and rigorous hearing process and have had regard to the local situation including local iwi matters.

Consenting and enforcement

6.5 Council also has a number of additional questions relating to the consenting process including:

- Will there be an 'in general accordance' provision for development plans? The environment within which development occurs changes over time and having to go through a whole process again for development plans will be time consuming and result in additional cost. Currently for consents granted under the RMA, there is provision for a change of conditions through a Section 127 application and this is regularly used for large developments that occur in several stages over a number of years.

- It is unclear why a new consenting timeframe of 15 working days is proposed.

- Will there be guidance on consent fees if UDA's are the consenting authority?

6.6 It is unclear from the proposals as to what consents will need to be notified. The discussion document mentions activities that are required to be notified by NPS's but it then later refers to Section 95 of the Act.

7.0 Infrastructure

General Matters

7.1 It is unclear to Council how the proposed UDA powers, particularly those relating to earthworks, construction and demolition can be rationalised in relation to wider issues, such as places of interest to iwi and other relevant district plan matters, if decision making is devolved to the Government.

Link with local government planning

7.2 No consideration has been given within the proposals to the process or resources required to integrate with key Council funding and investment plans (such as the Long Term Plan and the 30 year infrastructure strategy) with the proposals being developed by the UDA. If the UDA enables out of sequence and unanticipated development (particularly greenfield development) to come forward ahead of Council's long term planning for growth and infrastructure investment, this has the potential to work against integrated land use and infrastructure planning and delivery, and as a result, reduces certainty for council and the community (and other entities). It also exposes rate payers to ongoing debt repayment, in order to fund infrastructure.

7.3 The Council does not support the ability for a UDA to become a requiring authority for the purposes of designating land outside the development project area. This should be subject to existing formal processes, particularly since the long term maintenance of the infrastructure will not rest with the UDA.

7.4 Infrastructure delivery and cost efficiencies facilitated by careful forward planning also impact upon the viability of development and, therefore, the ability to deliver affordable housing.

Performance requirements and standards

7.5 The Council supports the need to collaborate with territorial authorities in respect of infrastructure provision, requirements, standards and level of performance. However, collaboration with the regional council will also be required and collaboration should be extended further to include decision making.

8.0 Funding and Financing

General Matters

8.1 There is some concern regarding the funding and financing of infrastructure to support the development project and that the funding mechanisms identified in the proposals will not be sufficient, particularly for medium and low growth authorities that cannot access the Housing Infrastructure Fund.

8.2 The Council is particularly concerned with the use of targeted rates to support new infrastructure that services new development. This power is already available to territorial authorities however under the proposals there is concern that this could be for development that would otherwise not have been anticipated by the community. Also, should the Council be subjected to significant unplanned and uncontrollable costs, this will delay the Council's financial strategy to fully fund depreciation and accelerate debt repayments. These are an important consideration if there are to be no rights of appeal and an independent commissioner is the decision maker. Council considers this matter would need to be addressed through a Long Term Plan process alongside other already identified requirements. In addition, the ability to identify the number and extent of existing properties in an area which are considered to benefit from new infrastructure may be difficult to ascertain.

Collecting targeted infrastructure charges

8.3 This proposal has a significant resource implication for the territorial authority that would need to be addressed if the proposals are implemented. Currently there are no administrative processes in place to enable Council to collect charges on behalf of and distribute funds to a UDA.

This additional function would also need to be accounted for in both staffing levels and funding, and should not be a cost borne by the territorial authority.

Cross Border Funding Issues

8.4 The Council does not support the use of an independent decision maker to force territorial authorities to generate revenue to support new development projects. The funding pot for territorial authorities is already limited and resources are directed at implementing the existing council strategies. Any direction from an independent commissioner is risking the ability of councils and communities to address their existing and already identified future projects.

8.5 Council supports the ability for territorial authorities to recover costs incurred from the UDA. However, these should be consistent with development contributions that would normally be collected for a development project of that nature and not set by an independent commissioner. As identified above, decisions made outside of the territorial authority have the ability to undermine a council's service delivery.

9.0 Māori interests in urban development and land use

Honouring Treaty Settlements

9.1 Council supports the proposals that the legislation will not override or amend arrangements in any legislation, deed or deed of settlement arising from a settlement of historical Treaty claims. The proposals recognise that there may be challenges in implementing treaty settlement arrangements but not how these will be resolved, and this is of concern. Greater clarity is also needed in respect of the pre-treaty settlement process. The UDA may also create an additional layer of complexity that currently iwi / whanau / hapū are not set up or resourced to become involved in or respond to, particularly if they opt to not include their land in the development project but still want to take part in the decision making process.

9.2 Tensions may also exist where the UDA is bound to uphold any co-governance arrangements established through Treaty settlements where decisions relate to planning (and consenting frameworks that have been replaced under the proposed legislation) and the rest of the development project. It is unclear who will be responsible for addressing this.

Process for establishing a development project

9.3 Further clarity is required in respect of land of significance to iwi, including waahi tapu and papakaianga, and how this might be protected in the development project. Identified waahi tapu and other areas of significance to Māori should be afforded further protection in the proposals. There is also little guidance on how papakaianga projects can benefit from these proposals and it should be assumed that iwi / hapū would opt not to include their land in the development project unless they specifically express an interest to opt in.

9.4 It is also of concern that strategic objectives of the development plan may not sufficiently take into account Māori culture and relationships, historic heritage and kaitiakitanga.

9.5 The model for succession in respect of Māori land also needs to be consistent with partnering on these types of development projects, and we understand post treaty iwi are likely to invest in projects where Māori land is not involved.

Rights of first refusal and land assembly powers

9.6 The Council strongly supports the proposals to maintain right of first refusal (RFR) when land is passed from the Crown to the UDA. However, we are concerned about the ability of the UDA to properly administer this process and consider that RFR should be at the discretion of a government entity to opt into the development project. Council supports the proposals that the UDA should not have the ability to compulsorily acquire Māori freehold land and, as identified previously, we have concerns with the UDA becoming a requiring authority.

10 Other Matters

Criteria or thresholds for selecting urban development projects

10.1 Council considers that the setting of thresholds does not allow for the flexibility to deal with a range of local circumstances. Criteria would be more useful but should be founded on sound sustainable management principles set out in part 2 of the RMA.

The role of territorial authorities

10.2 Council would not support proposals that would enable the development project to go ahead without the agreement of the territorial authority.

Transitional Issues

10.3 Council requests that further clarity is provided on transitional arrangements in respect of treaty settlements.

Market provision of infrastructure

10.4 Council does not consider the proposals will be sufficient to ensure infrastructure delivery and, as identified above, it has serious concerns about the funding and future maintenance of infrastructure.

10.5 Council supports the submission of SOLGM on the issues of the funding arrangements and further comments that with regards to accepting infrastructure debt from the UDA as well as future revenue streams from that infrastructure, there would need to be assurance that future revenue streams would cover any debt accepted. Territorial authorities do not have the funding availability to bail UDAs out and it is considered that out of sequence development needs to be carefully managed to ensure no cost burdens relating to infrastructure provisions.

11.0 Conclusion

11.1 Council appreciates the amount of work and research that has gone into the preparation of the discussion document and the communication with the Ministry around the document. The comments outlined above highlight the issues that are most important to our district. Council places a high priority on working closely with the Government on this proposal and appreciates your consideration of this submission.

Yours sincerely,

Pat Dougherty
CHIEF EXECUTIVE

D. Stakeholder Guide: Territorial authorities

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 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.

The Government is therefore 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.

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.

Territorial authorities and the urban development legislation

To succeed, urban development projects need central and local government to work together. The Government therefore proposes that urban development projects will require the agreement of every territorial authority whose area falls within the proposed project boundaries. Effectively, territorial authorities will have a veto over the application of the proposed legislation to a particular development project.

Territorial authorities will also have a key role throughout the process, as outlined below:

Proposed process

Initiating development projects (Proposals 1 - 21)

Section 3 of the Discussion Document outlines the process for identifying an urban development project. The process starts with either central or local government (territorial authority) initiating a proposal. This could be the result of an approach to government from the private sector, including from iwi organisations and Māori land trusts and incorporations, to consider supporting significant developments that these groups wish to lead on land in which they have an interest. Alternatively, government may identify opportunities to develop publicly owned land.

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. To inform the assessment, government must engage with relevant iwi and hapū groups (regarding

Māori interests in land inside the proposed development project area), with public landholders and requiring authorities (regarding their interests) and with any existing entity that is proposed either to be the urban development authority or to lead the development.

Who would undertake the initial assessment of a potential development project has been left open at this stage. If the project is initiated by a territorial authority, either its officials or the officials of a council controlled organisation may manage this process. If central government initiates a project, an independent panel could be formed to undertake the assessments and make recommendations to the Government, or (once established) an urban development authority that is granted development powers may have the necessary expertise to take on this role. The Government welcomes views on this topic.

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:

- 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;
- 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. Government must engage with relevant iwi and hapū groups and post-settlement governance entities that have an interest in land in the proposed project area; and the relevant regional council.

Establishing a development project (Proposals 22 - 33)

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

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.

The Government will be able to allocate development powers to either new or existing entities, provided they are publicly-controlled and willing to take on the role. Territorial authorities are one type of existing entity that would be eligible to become an urban development authority (proposal 60).

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 required to consult with relevant territorial authorities and regional council on the content of the draft development plan, and central government agencies that provide public services. The authority will also be free to engage with the community as it sees fit.

During preparation of the development plan, the urban development authority must confirm which landowners have elected to include their land in the 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.

All affected persons will 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.

In order to avoid duplicating consultation processes on the same issues, the Government proposes that the public consultation required under the proposed legislation is deemed to satisfy the territorial authority's consultation obligations under the Local Government Act 2002. However, the territorial authority will be free to engage in further consultation if it wishes.

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. If a variation to the development plan is required, the same process for development and approval applies, including consultation.

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 has to be satisfied that the plan fulfils the strategic objectives of the development project. If not satisfied, the Minister can reject the plan or ask for changes to be made.

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 - 88)

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 roading purposes and for urban renewal.

The urban development authority can ask the Minister for Land Information to compulsorily acquire any land that is included within a development project, for any one of the existing types of public works. It is important to note that final decision-making power would remain with the Minister for Land Information. Neither the range of public works for which land can be taken, nor the types of land that can be taken, will be extended.

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, subject to the exception noted below (in respect of requiring authority powers), 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 ask for these powers to 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 set out in section 5, it is expected that the Public Works Act 1981 would only be used as a last resort for urban development projects.

Reserves (Proposals 89 – 96)

Reserves can occupy a reasonable amount of land space, therefore it may be desirable to re-configure or revoke reserve status of existing reserves within a development project area and to do so through streamlined processes, subject to appropriate constraints. Nature reserves, scientific reserves and Māori reserves will be exempt from the powers proposed in relation to reserves.

In the case of recreation and local purpose reserves, the powers can only be exercised after consultation with the bodies that administer, manage and own the reserve, especially with respect to the values and purpose for which the reserve is held. For scenic, historic and government purpose reserves, the prior agreement of the Minister of Conservation, which may include the Minister imposing certain conditions, **must** be obtained.

There is also a need to better integrate reserve management planning powers and reserve by-laws with other land use planning. The proposed legislation will include a power to adopt, amend or replace the reserve management plan in consultation with the territorial authority and the administering body.

It will also include a power to suspend by-laws relating to activities on reserves in the development project for the duration of the development, and to recommend and require the territorial authority to cancel, create or

amend by-laws as they apply to the area. The power to suspend by-laws will be limited to the extent necessary to meet the development project's objectives.

For reserves that are exchanged, the new reserve must provide at a minimum for the same purpose and values as the original reserve and, if at all practicable, be located in close proximity to the community that the original reserve served. If reserve land is sold, the proceeds will be treated in the same way as they are now.

Planning and resource consenting (Proposals 97 - 111)

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

An urban development authority can be granted the planning and consenting powers of a regional council and territorial authority. Where such powers are not granted to an urban development authority, regional councils and territorial authorities continue to undertake this function.

Regardless of whether it is the urban development authority, the territorial authority or a regional council that is the decision-maker, when making decisions on planning and land use regulation that apply to any part of a development project area, decision-makers must have regard to the strategic objectives as their first priority and must give them the most weight.

The urban development authority can take on the compliance and enforcement responsibilities and powers of a territorial authority and regional council, for breaches of the development plan and associated development consents (except where the authority is the developer and a development consent has been required, in which case compliance and enforcement will rest with the relevant local 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. The summary table at the end of Section 6 provides a summary of the proposed changes.

Infrastructure powers (Proposals 112 – 118)

Section 7 (and its associated summary table) identifies proposed powers that an urban development authority could be granted powers 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 the development project areas that would service individual areas or households as well as new trunk or network systems or plants, outside of the development area, that may be required to support the increased number of households or 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 could 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 the 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)

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, 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 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.

Links to 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 not inconsistent 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.

Powers are also proposed to suspend part of, or recommend changes to, regional land transport or public transport plans, as they apply to a development project, where a project or service set out in the plan may compromise the proposed development or would no longer apply because of the development. These powers

[1] See section 166-168, Resource Management Act 1991.
[2] See section 186, Resource Management Act 1991.

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 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 will 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.

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 proposed legislation would require urban development authorities 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 and government agencies. 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 proposed 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.

In appropriate situations, there may be a case for levying part of the annual infrastructure charge on properties outside the development project area that are directly benefiting from the infrastructure improvements or public amenities that the project is providing (e.g. new access roads or parks). However, the Government proposes that only the territorial authority, rather than the urban development authority, has the power to collect revenue for this purpose from residents who live outside the project area.

The local territorial authority would have no power to levy development contributions on developers within the development project area, but will be able to seek to recover a share of the costs for providing head works, trunk infrastructure and wider services and amenities that benefit land owners within the project area. Similarly, an urban development authority can seek to recover from the relevant territorial authority an appropriate share of the costs of providing facilities and amenities that benefit landowners outside the development project area.

To resolve any disputes regarding the relative share of the costs incurred for developing new infrastructure, the new legislation will include a mechanism through which either the local territorial authority or the urban development authority can apply to an independent decision-maker who has the power to determine to what extent each will be subject to the costs of infrastructure and amenities within the project area.

In addition to developers providing local infrastructure, the proposals have been designed to allow for the private provision of trunk infrastructure, removing the need for public entities to provide this infrastructure. In particular, the proposals enable private sector entities to access an annual infrastructure charge against which the private sector can borrow to construct the trunk infrastructure required.

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.

ATTACHMENT 3

Summary of Proposals in the Urban Development Authority Discussion Document

Section 1

Section 1 sets out the reasons that the document has been produced, as well as identifying the document structure, how people can have their say on the discussion document and the next steps in the process.

Section 2

As well as providing a brief summary of the discussion document, Section 2 of the discussion document sets out the processes for establishing a development project and preparing the development plan. The establishment of a development project includes identifying the development opportunity and desired outcomes, assessing the proposal, achieving government agreement and consultation. Once the development project is established a development plan is drawn up and consulted upon and submissions will be heard by commissioners before going to the Minister if there are objections lodged, if no objections are lodged the Minister reviews the development plan and makes a final decision.

Section 3

Table 1

Proposals: Framework – Core components

1. The proposed legislation enables central government and territorial authorities: (a) to empower nationally or locally significant urban development projects to access more enabling development powers and land use rules; and (b) to establish new urban development authorities to support those projects where required.

2. The purpose of the proposed legislation is to better enable urban development at scale.

3. The proposed legislation is an enduring legislative tool-kit to meet the ongoing needs of urban development.

4. The proposed legislation describes the nature and extent of each development power and how and when it can be deployed.

5. The proposed legislation has no effect unless and until the Government allocates the powers to a particular development project.

6. The proposed legislation gives the Government the power to:

(a) identify a development project;
(b) set the strategic objectives for the project;
(c) select which of the development powers that project can access;
(d) determine who can exercise the development powers for that project; and
(e) determine who is accountable for delivering that development project's strategic objectives.

7. The choice of development powers must reflect the strategic objectives.

8. The development powers that the Government grants can be subject to conditions or limitations tailored to the particular development project.

9. The development powers that the Government grants are only available for the identified development project.

10. The urban development authority determines if and when each power is exercised in relation to the relevant development project, subject to satisfying any conditions for their use (whether those in legislation or those imposed at the time the development project is established).

Table 2

Proposals: Framework – Scope

11. The proposed legislation defines 'urban development' to include: (a) bringing land and buildings into effective use, including through the subdivision or consolidation of land; (b) encouraging the development of industry and commerce, whether new or existing; (c) creating an attractive and sustainable urban environment; (d) ensuring that housing and social facilities are available to encourage people to live and work in the area; and (e) providing sufficient utility infrastructure, roads and public transport to support optimal urban use.

12. The proposed legislation is available to support urban development wherever this may occur in New Zealand, including in greenfield areas at or beyond the edge of any existing built-up area.

13. The development powers are only available during the time it takes to realise the strategic objectives of the relevant development project.

14. Both public and private sector developments are eligible to become development projects under the proposed legislation, but private developers cannot be delegated with the power to exercise any of the development powers.

Table 3

Proposals: Framework – Application

15. Central government and territorial authorities together select the particular development projects and areas in which the more enabling development powers can apply.

16. The proposed legislation will not operate as the general planning framework for urban areas as a whole.

17. The proposed legislation supports nationally or locally significant development projects that are complex or strategically important.

18. In addition to housing projects, commercial building and business projects with no housing component are eligible for consideration, together with associated infrastructure development.

19. Stand-alone infrastructure projects are not eligible.

20. Features that warrant a development being considered for support under the proposed

legislation include:

(a) acute housing need;
(b) fragmented land ownership;
(c) large scale;
(d) major infrastructure investment;
(e) high deprivation; and
(f) location across local authority boundaries.

Table 4

Proposal: Framework – Benefits

21. The strategic objectives the Government sets for a development project can include conditions for the delivery of public good outcomes.

Table 5

Proposals: Processes – Establishment stage

22. Territorial authorities can recommend that the Government consider a particular development project for access to powers under the proposed legislation, or the Government itself can initiate the process.

23. Prior to publicly proposing a development project for consideration, officials must undertake an initial assessment of the project that addresses issues that are appropriate for the scale and type of development involved.

24. To inform the existing nature and use of public landholdings, the initial assessment must include: (a) consultation with the relevant public landholders; (b) requiring authorities; and (c) where they already exist, with the entities that are proposed to lead the development and be the urban development authority.

25. If satisfied that a proposed development project warrants the initial support of government, the Minister4 and the Mayor of the relevant territorial authority approve consultation with the public.

26. The Minister and the Mayor must announce for consultation the proposed development project, area, strategic objectives, development powers, nominated urban development authority and (if different) the nominated entity to be accountable for delivering the strategic objectives, supported by the initial assessment of the proposed development project.

27. Any interested member of the public can make written submissions in response to each proposed development project.

28. Government must engage with: (a) relevant iwi and hapū groups and post-settlement governance entities that have an interest in land in the proposed project area; and (b) the relevant regional council.

29. The branch of government (for example, territorial authority) that leads the consultation must provide the other branch of government (for example, central government) with full access to the results of the consultation, in order to inform subsequent decision-making.

30. Amendments can be made to the proposal in light of feedback.

31. A development project is formally established by an Order-in-Council approved by the

Governor-General on the Government's recommendation.

32. The Order-in-Council establishing a development project must stipulate:

(a) the development project;
(b) the area, including boundaries and stipulating any land parcels that are excluded because eligible Māori landowners have elected to exclude their land from the project;
(c) strategic objectives;
(d) development powers;
(e) the urban development authority that is authorised to exercise the development powers;
(f) the entity to lead the development project and be accountable for delivering the strategic objectives; and
(g) any conditions that central government or the relevant territorial authority have agreed to impose, including conditions on the extent or exercise of any development power that is being granted to the project.

33. No appeal is available on the decision to formally establish a development project.

Table 6

Proposals: Processes – Development plan stage

34. The urban development authority must develop and publish a draft development plan for the development project, within a specified time.

35. When making decisions on the content of development plans, the urban development authority must give paramount consideration to the strategic objectives of the development project.

36. The urban development authority is required to consult with relevant territorial authorities, the regional council, and central government agencies that supply public services, on the content of the draft development plan.

37. Any interested member of the public can make written submissions in response to the draft development plan.

38. If the process of preparing the development plan identifies other development powers that are needed to realise the development project's strategic objectives, the urban development authority may apply to the Government to have those powers granted by amendment to the Order-in-Council establishing the project.

39. The urban development authority can amend the draft development plan in response to public submissions.

Table 7

Proposals: Processes – Contents of the development plan

40. The development plan must:

(a) state the strategic objectives set by the Government for the development project;
(b) identify how each of the development powers are proposed to be exercised (e.g. the nature and location of new land use regulations, where reserves will be revoked or exchanged, where roads and other infrastructure will be created or re-aligned, and

where any new schools or other central government services will be located);
(c) show how the development powers will contribute to delivering the development project's strategic objectives, including any public good outcomes that government has stipulated;
(d) show how any conditions attached to accessing the development powers will be fulfilled;
(e) include an assessment of effects on the environment, including cumulative effects;
(f) if the urban development authority has been granted funding powers, state the range of any annual infrastructure charges and development contributions that it anticipates will be levied on land owners and developers, respectively; and
(g) identify any further development powers that the urban development authority has not been granted but proposes to apply for.

Table 8

Proposals: Processes – Objections

41. Affected persons can object to the recommended development plan within a specified time by written submission to the urban development authority, stating the reason for the objections and the change the person seeks to the recommended plan.

42. If objections are received—

(a) the urban development authority must submit the recommended development plan to independent commissioners for examination, and provide the independent commissioners with copies of the objections that the authority received, together with the authority's views on those objections;
(b) the independent commissioners review the objections and the relevant parts of the recommended development plan;
(c) the independent commissioners can seek further information from the urban development authority, objectors or an independent technical expert by either holding informal hearings (which are not mandatory) or commissioning reports;
(d) the independent commissioners can recommend to the Minister that the development plan:

i. be approved as recommended by the urban development authority; or ii. be approved subject to specified amendments that address the objections (and any consequential matters); or
iii. be rejected entirely.

Table 9

Proposals: Processes – Approval of the development plan

43. If no objections are received, the urban development authority is required to submit a final development plan for approval by the Minister.

44. Having considered the development plan (and any advice from the independent commissioners if objections were received), the Minister makes the final determination to either:

(a) approve the urban development authority's recommended development plan, whether or not the independent commissioners endorsed it in full; or
(b) approve the development plan with all the commissioners' recommended changes; or

(c) approve the development plan subject to changes the Minister determines (restricted to matters raised in objections); or
(d) reject the proposed development plan in its entirety.

45. If a variation to the development plan is required, the same process for development and approval applies.

46. The final development plan is not subject to appeal on its merits to the Environment Court.

47. The new regulatory provisions in the development plan take effect upon suitable notice being given of the Minister's final approval.

48. The relevant territorial authority and regional council must have regard to the development plan when reviewing their own plans and policy statements.

Table 10

Proposals: Processes – Dispute resolution

49. The Minister responsible for the proposed legislation can appoint independent commissioners at the commencement of a development project who are authorised to resolve any disputes that may arise between the urban development authority and other public and private entities.

Table 11

Proposals: Processes – Role of territorial authorities

50. No development project may be established without the agreement of both central government and the relevant territorial authority (whose area the proposed boundaries of the development project will fall within).

51. The agreement of the Mayor of the relevant territorial authority must be obtained before public consultation can commence on establishing the proposed development project.

52. Following public consultation, the formal agreement of the relevant territorial authority must be obtained for the content of the recommendation that Cabinet makes to the Governor-General for the establishment of the development project.

53. The urban development authority is required to consult with relevant territorial authorities and regional council on the content of the draft development plan.

54. Given the wide consultation that will be undertaken before a development project can be formally established, the relevant territorial authority is deemed to have fulfilled its obligation to consult with its community under the Local Government Act 2002 (whether it is central government or the territorial authority that has initiated the project and is leading the public consultation) and so need not undertake additional consultation in advance of deciding whether to support a development project.

Table 12

Proposals: Processes – Role of regional councils

55. A development project may be established without the prior agreement of the regional council.

Table 13

Proposals: Processes – Role of central government

At the time the Government recommends the establishment of a development project, it will also agree the extent to which each relevant central government department or agency will be required to support the realisation of that project's strategic objectives, and amend its strategies, planning, forward budget and investment in order to do so.
Decisions regarding the number, size, type and development needs of central government services in the development project area (such as schools, fire stations, defence and health facilities) will continue to be made by the central government agencies responsible for providing these services. The urban development authority will not be able to introduce, relocate, expand or disestablish any central government service.

The relevant central government agency will also continue to finance the construction and maintenance of any buildings required to support the provision of central government services in the development project area. Where needed, the urban development authority will be responsible for identifying the location of any new, extended or relocated central government services in the development plan, provided the urban development authority works closely with the relevant agency in advance and selects a location that meets the agency's needs.

Section 4 of the Discussion Document

Table 14

Proposals: Urban development authorities – Organisational form

56. The Government can allocate development powers to either new or existing entities, provided they are publicly controlled and willing to take on the role.

57. An urban development authority can be a regulator only.

58. Whether new or existing, an urban development authority can be granted development powers in respect of one or more development projects.

59. An urban development authority can only exercise development powers to achieve the strategic objectives for the development project and in accordance with the development plan.

60. Provided they are majority publicly controlled, existing entities of the following types are eligible to become an urban development authority and be granted development powers in respect of a development project:

(a) core Crown departments, agencies or departmental agencies;
(b) statutory Crown entities, such as Housing New Zealand Corporation;
(c) limited liability companies, including jointly controlled central and local government companies and state-owned enterprises;
(d) council controlled organisations, whether owned and controlled by one territorial authority or by a group of territorial authorities and with or without a lesser shareholding held by central government or the private sector; and
(e) territorial authorities.

61. Where a new public entity is desired to lead a development project, the Government can establish: (a) a statutory Crown entity as an urban development authority that can be granted development powers; and (b) a new type of statutory entity that can be accountable

to both central and local government, similar to the model adopted for Regenerate Christchurch.

Table 15

Proposal: Urban development authorities – Objectives

62. The primary objectives of an urban development authority are to:

(a) exercise its development powers to realise the development project's strategic objectives in accordance with the approved development plan; and
(b) where applicable, be accountable for the successful delivery of the development project's strategic objectives in accordance with the approved development plan.

Table 16

Proposals: Urban development authorities – Accountability and monitoring

63. The entity leading the development project is accountable for delivering the project's strategic objectives. The urban development authority may or may not be the entity leading the development project.

64. A central government department will be tasked with monitoring the activity of urban development authorities**.**

Table 17

Proposals: Urban development authorities – Delegations

65. An urban development authority that has been appointed to lead the development project and be accountable for delivering the strategic objectives (in addition to being granted with development powers) can take direct responsibility for all other development functions within a development project, including acting as the developer, or may choose to delegate those functions to another public or private entity (but in general cannot delegate the authority to exercise the development powers).

66. Where an urban development authority is granted development powers in respect of a development project that it does not otherwise lead (i.e. where it is a regulator only), the relevant private developer or lead development entity must apply for the urban development authority to exercise the development powers.

Table 18

Proposals: Urban development authorities – Lead development entities

67. The organisational form of a lead development entity will not be limited by legislation.

68. The urban development authority remains accountable for the performance of any lead development entity to which it delegates any lead development entity functions.

Table 19

Proposals: Urban development authorities – Disestablishment

69. Unless provided by the Order-in-Council that established the development project, the urban development authority can determine the timing and define the process for dis-establishing the development project that is appropriate for the project's nature, scale and

complexity.

70. The Minister:

(a) can disestablish a development project by notice in writing following confirmation from the relevant urban development authority that the project's strategic objectives have been successfully delivered and there are no residual issues that require development powers to be exercised in respect of the project; and
(b) the Minister's disestablishment notice must:

i. stipulate the removal of development powers;
ii. state the timing and process for winding up the urban development authority (if required);
iii. identify the assets, liabilities, revenue streams, rights, obligations, designations and on-going management requirements to be transferred and the organisation that will take responsibility for the same; and iv. state any agreed conditions that the Minister, local government or any other receiving entity wishes to impose.

71. When an urban development authority is unlikely or unable to deliver its strategic objectives for any reason, including where the authority is no longer financially viable or has become insolvent, the proposed legislation includes a power for the responsible Minister:

(a) to remove some or all development powers from a development project;
(b) to remove the urban development authority from a development project;
(c) to appoint an alternative public entity as the urban development authority in respect of any or all development projects that a particular authority is responsible for, either on an interim or permanent basis; and
(d) to replace some or all of the board, or appoint a commissioner to manage those types of urban development authority that are controlled by central government and have been established solely to facilitate development projects.

Section 5

Table 20

Proposals: Land assembly – Market based negotiations

72. An urban development authority can purchase land by agreement with the landowner.

73. At the landowner's discretion, an urban development authority can pay for all or part of the land in the form of an equity stake in the development project.

74. An urban development authority can dispose of its land, including by sale, lease, easement, or transferring the land to other government agencies.

Table 21

Proposals: Land assembly – Compulsory acquisition

75. The key decision-making powers with respect to any compulsory land acquisition are exercised by the Minister for Land Information in the same way as for other Crown entities.

76. With respect to the process of compulsory acquisition, urban development authorities operate with equivalent powers to other entities that can access compulsory acquisition.

77. Urban development authorities can access the benefit of compulsory land acquisition for purposes that are no more and no less than the purposes for which both central and local government can currently exercise compulsory land acquisition.

78. The exercise of any power of compulsory land acquisition must comply with the process and requirements set out in the Public Works Act 1981, including the following requirements: (a) the Minister for Land Information must exercise the power in accordance with existing tests in the Act and must be satisfied that: i. the objectives for which the land needs to be taken are clear; ii. alternative sites or methods of achieving the objectives have been considered; and iii. it is fair, sound and reasonably necessary to invoke the powers in order to achieve those objectives; (b) there is an obligation to first negotiate in good faith to acquire the land; (c) the landowner has the right to be compensated so that they are left in no worse (or better) situation than before the land acquisition; (d) the landowner has the right to have the amount of compensation determined independently; and (e) the landowner continues to have the right to object to the taking of the land to the Environment Court.

79. An urban development authority can access the benefit of compulsory acquisition only within the boundaries of the development project area.

80. The urban development authority can only apply for compulsory land acquisition within a specified time after a development plan is finalised.

81. 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.

Table 22

Proposal: Land assembly – Value of compensation

82. In calculating compensation for land acquired or taken, no allowance is made for any increase or reduction in the value of the land as a result of a development project.

Table 23

Proposals: Land assembly – Assembling public land

83. The proposed legislation:

(a) includes a power to require relevant local authorities and council controlled organisations, district health boards and Crown entities (e.g. Housing New Zealand Corporation) to transfer land that they own within a development project area to the Crown for transfer to the public entity responsible for leading the development project;

(b) provides that the power can only be exercised by the Governor-General, on the recommendation of the Minister responsible for the proposed legislation, the Minister of Finance, and the Minister for Land Information;

(c) includes an obligation to compensate the public entity in the same manner as it would be if the land was compulsorily acquired under the Public Works Act 1981; and (d) provides that, in calculating compensation, no allowance is made for any increase or reduction in the value of the land as a result of a development project.

84. The proposed legislation includes a power to change the purpose for any publicly owned

land within the development project area that was previously acquired for a public work but that is no longer needed for the existing public work.

Table 24

Proposals: Land assembly – Dealing with lesser interests in land

85. The proposed legislation includes a power to remove any legal encumbrances from land within the development project area, such as easements and covenants.

86. Compensation is payable for the removal of any encumbrances.

87. No memorial noted on a land title under section 27B of the State Owned Enterprises Act 1986 may be removed.

Table 25

Proposals: Land assembly – Amalgamation and subdivision

88. The proposed legislation includes powers to subdivide and re-subdivide land, and consolidate subdivided or re-subdivided land.

Table 26

Proposals: Reserves – General matters

89. Powers over reserves only apply to the following types of reserves, provided that a reserve of this type either exists or is created within a development project area ("Identified Reserves"):

(a) recreation reserves;
(b) local purpose reserves;
(c) scenic reserves;
(d) historic reserves; and
(e) government purpose reserves.

90. The proposed powers over reserves will not apply to any of the following types of reserves:

(a) nature reserves;
(b) scientific reserves; and
(c) Māori reserves under the Māori Reserved Land Act 1955.

91. The proposed legislation provides powers:

(a) to transfer any existing Identified Reserves to the public entity leading the development project;
(b) to vest any existing or created Identified Reserves in the public entity leading the development project; and
(c) to classify, change the classification of, revoke or exchange all or part of an Identified Reserve, subject to prior consultation with the bodies that administer, manage and own the reserve (or owned it prior to it being transferred), especially with respect to the values and purpose for which the land is held.

Table 27

Proposals: Reserves – Limitations on the powers

92. In the case of recreation and local purpose reserves, the powers can only be exercised after consultation with the bodies that administer, manage and own the reserve, especially with respect to the values and purpose for which the reserve is held.

93. In the case of scenic, historic and government purpose reserves, the powers over Identified Reserves are subject to the prior agreement of the Minister of Conservation, which may include the Minister imposing certain conditions. In deciding whether or not to agree, the Minister must:

(a) have regard to the classification of each reserve and the purpose of that classification in terms of sections 18, 19 and 22 of the Reserves Act 1977; and
(b) be satisfied that:

i. the reserve does not contain natural and historic values of national or international significance which should in the public interest be retained;
ii. the utilisation of the reserve or part of the reserve is necessary for the development; and iii. there are no viable alternatives.

Table 28

Proposals: Reserves – Management plans and by-laws

94. For relevant Identified Reserves, the proposed legislation includes a power:

(a) to adopt, amend or replace the reserve management plan for that reserve in consultation with the territorial authority and the administering body;
(b) to suspend by-laws pertaining to activities on reserves in the development project for the duration of the development; and
(c) to recommend and require the territorial authority to cancel, create or amend by-laws as they apply to reserves in the development project area.

Table 29

Proposals: Reserves – Other matters

95. For Identified Reserves that are exchanged, the new reserve must provide at a minimum for the same purpose and values as the original reserve and, if at all practicable, be located in close proximity to the community that the original reserve served.

96. If reserve land is sold, the proceeds will be treated in the same way as they are now.

Summary of proposed changes – Land assembly

Land Assembly: Key proposals	Detail	Effect of change/affected party
The key decision-making powers with respect to any compulsory land acquisition will continue to be exercised by the Minister for Land Information	• No substantive change from status quo	
The proposed legislation will enable urban development authorities to access powers of compulsory land acquisition for purposes that are no more and no less than the purposes for which both central and local government can currently exercise the powers	• No substantive change to existing public works	• The urban development authority would be given access to powers already available under the status quo
The exercise of any power of compulsory land acquisition must comply with the process and requirements set out in the Public Works Act 1981	• No substantive change from status quo	
The landowner has the right to be compensated so that they are left in no worse (or better) situation than before the land acquisition	• No substantive change from status quo	
The landowner continues to have the right to object to the taking of the land to the Environment Court	• No substantive change from status quo	
In calculating compensation for land acquired or taken, no allowance is made for any increase or reduction in the value of the land as a result of a development project	• This is a similar approach to that taken under the status quo	
Include a power to require relevant local authorities and council controlled organisations, district health boards and Crown entities to transfer land that they own within a development project area to the public entity responsible for leading the development project	• Rather than acquiring the land by compulsory acquisition under the Public Works Act 1981, the Government will be able to require the transfer of public land to the public entity leading the development project	• Should result in a more efficient process for transferring land to the public entity
Include an obligation to compensate the public entity in the same manner as it would be if the land was compulsorily acquired under the Public Works Act 1981	• Similar approach to that taken under the status quo	
Include a power to change the purpose for any publicly owned land within the development project area that was previously acquired for a public work but that is no longer required	• In consultation with the relevant public entity, the urban development authority will be able to propose an alternate use for public land that it acquires	• The new proposed use for the land will need to be consulted on as part of the engagement in advance of establishing the development project

Land Assembly: Key proposals	Detail	Effect of change/affected party
Include a power to remove any legal encumbrances from land within the development project area, such as easements and covenants (though not memorials noted on a land title under section 27B of the State Owned Enterprises Act)	• The urban development authority would be given access to powers already available under the status quo	• The current compensation entitlements that may apply when such legal encumbrances are extinguished will continue
Include powers for an urban development authority to subdivide and re-subdivide land, and consolidate subdivided or re-subdivided land	• No substantive change from status quo	

Summary of proposed changes – Reserves

Reserves: Key proposals	Detail	Effect of change/affected party
Proposals to exchange, classify, change classification or revoke reserve status of recreation and local purpose reserves must be informed by prior consultation with the administering body	• Cabinet must approve the establishment of the development project, including the proposed changes to reserves in the development project area	• Any proposed changes to reserves will need to be included in the development plan that is publicly consulted
Proposals to exchange, classify, change classification or revoke reserve status of historic, scenic and government purpose reserves will require the consent of the Minister of Conservation	• Consultation with the administering body of the reserve will still be required • No substantive change from status quo	• Any proposed changes to reserves will need to be included in the development plan that is publicly consulted
Powers to exchange, classify, change classification or revoke reserve status of scientific and nature reserves will not be included in the proposed legislation	• Reflects the existing protections for these types of reserves in the Reserves Act 1977	
Any proposed changes to reserves would be consulted on as part of the development plan	• Similar approach to that taken under the status quo	
When reserves derived from Crown land are revoked and disposed of, the proceeds of disposal can be used by the Crown for the purposes of the Reserves Act 1977	• No substantive change, aside from the geographical location of the reserves that would have money spent on them	• If the Minister of Conservation decides to, the proceeds from the disposal of reserves derived from Crown land will be used for reserve purposes or for the management of reserves, in the first instance in the urban development project area or in reserves that service that project area
An urban development authority will be able to adopt, amend or replace reserve management plans for reserves within the development project area	• The urban development authority will be given access to powers already available to councils or administering bodies under the status quo	• This power will be exercised by an urban development authority in consultation with the territorial authority and the administering body

Reserves: Key proposals	Detail	Effect of change/affected party
An urban development authority will be able to suspend by-laws, and recommend and require a territorial authority to cancel, create or amend by-laws as they apply to reserves in the development project areas	• The power to suspend by-laws will be limited to the extent necessary to meet the development project's strategic objectives • Powers to enforce by-laws will remain with the territorial authority	• The urban development authority will be given access to powers already available to territorial authorities under the status quo

Section 6

Table 30

Proposals: Planning, land use and consenting – Decision-making considerations

97. Regardless of whether it is the urban development authority, the territorial authority or a regional council which is the decision maker, when making decisions on planning and land use regulation that apply to any part of a development project area, the decision maker must have regard to the following matters, giving weight to them in the order listed:

(a) first, the strategic objectives of the development project;
(b) secondly, the matters in Part 2 of the Resource Management Act 1991 ("RMA"), which provide that Act's core purpose and principles; and
(c) thirdly, other relevant matters listed in sections 66 and 74 of the RMA for decisions on the development plan, and sections 104-107 of the RMA for decisions on resource consents and development consents.

Table 31

Proposals: Planning, land use and consenting – Role of existing RMA instruments and entities

98. To the extent it is necessary to achieve the strategic objectives of the development project:

(a) the development plan can override one or more of the existing and proposed: district plan, regional plan and the applicable regional policy statement that would otherwise apply to the development project;
(b) the Government can choose the extent to which one or more of the district plan, regional plan and regional policy statement can be overridden in each case;
(c) an urban development authority can be granted the planning and consenting powers of a regional council and territorial authority;
(d) the Government can impose conditions on the use of any planning powers that are granted (such as a condition to comply with a rule concerning discharges in a regional air plan, notwithstanding that the Government is granting a power to override the regional plan more generally); and
(e) the urban development authority can take on the compliance and enforcement responsibilities and powers of a territorial authority and regional council, for breaches of the development plan and associated development consents (except where the authority is the developer and a development consent has been required, in which case compliance and enforcement will rest with the relevant local authority).

99. The relevant territorial authority and regional council must have regard to the importance of integrating a development plan with its surrounding planning context when reviewing their own plans and policy statements.

100. 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.

Table 32

Proposals: Planning, land use and consenting – Development plan

101. When planning powers have been granted for a development project:

(a) the development plan overrides or effectively replaces the regional policy statement, regional plan and district plan (as applicable, to the extent permitted by the scope of the powers that the development project has been granted);
(b) until the development plan is approved and notified, the current rules in the relevant territorial authority's district plan and the relevant regional council's regional plan(s) continue to apply; and
(c) the urban development authority must provide an assessment of the efficiency and effectiveness of the proposed rules in the development plan with respect to controlling land-use and managing effects on the environment.

102. The development plan must:

(a) show how the planning powers will be used to deliver on the strategic objectives and relevant matters under the Resource Management Act 1991 ("RMA");
(b) identify, for the project, which provisions in a regional policy statement, regional plan and district plan will continue to apply and incorporate them by reference into the development plan;
(c) prescribe the development rules to apply within the development project;
(d) provide for the following classes of development activities:

i. activities that can occur without any need for a development consent (the equivalent of a permitted activity under the RMA);
ii. activities that require a development consent but that must be approved, subject to a discretion to impose a range of conditions in restricted circumstances (the equivalent of a controlled activity under the RMA);
iii. activities that require a development consent and where there is discretion to approve or decline the application (with or without conditions), but where the exercise of that discretion is restricted to defined matters (the equivalent of a restricted discretionary consent under the RMA);
iv. activities that are expressly prohibited in the development plan (the equivalent of prohibited activities in the RMA);

(e) classify all activities identified in the plan under one of the categories described above;
(f) treat all other activities, for which rules have not been expressly included in the development plan, under a separate consenting process;
(g) describe the processes to be used for: i. obtaining development consents; and ii. establishing and rolling-over designations within the project area;
(h) describe how the project will be integrated back into the wider planning context of the surrounding district at the completion of the project;
(i) give effect to any applicable national level RMA instruments (New Zealand Coastal Policy Statement, national policy statements, national environmental standards and regulations);
(j) adopt the same protection for significant historic heritage sites usually provided for through district and regional plans; and
(k) have regard to the relevant regional policy statement and regional plan.

103. Any variation to the development plan must be dealt with using the same process as that used for the creation of the development plan.

104. When there is more than one stage to a development plan—

(a) the first stage must be developed in detail in the initial plan and the second and subsequent stages outlined in concept; and

(b) the development of the detailed plan for the later stages must be undertaken using the same process as for the creation of the development plan for the first stage.

Table 33

Proposals: Planning, land use and consenting – Consenting and enforcement

105. An urban development authority can be granted the planning and consenting powers of a regional council and territorial authority. Where such powers are not granted to an urban development authority, regional councils and territorial authorities continue to undertake this function.

106. Regardless of who acts as consent authority, when making decisions on development consents under the development plan (or on resource consents under a regional or district plan) for activities taking place within a development project area, the decision-maker must have regard to the following matters, giving weight to them (greater to lesser) in the order listed:

(a) first, the strategic objectives of the development project;

(b) secondly, the matters in Part 2 of the Resource Management Act 1991 ("RMA"); and

(c) thirdly, other relevant matters in sections 104-107 of the RMA. 107. As under the RMA, the development plan can provide for activities to automatically proceed without the need for a development consent.

Table 34

Proposals: Planning, land use and consenting – Activities included in the development plan (Process A)

108. For activities included in the development plan:

(a) an application for development consent must contain an assessment of environmental effects, including cumulative effects;

(b) the application is non-notified, unless:

i. special circumstances exist; or

ii. notification is required by a National Environmental Standard; or

iii. the development plan requires notification; or

iv. the applicant requests notification; or

v. the proposed activity is one that would otherwise have required a regional council to act as the consent authority and is not an activity for which consent must be granted, in which case limited notification applies;

(c) non-notified applications must be processed within 15 working days;

(d) if notification is required then:

i. a notification decision is required within 10 working days;

ii. the time limit for submissions (written only) is 15 working days (but may be extended, at the discretion of the urban development authority);

iii. the decision maker must consider submissions but not hold public hearings; and iv. a decision must be given within 15 working days from the close of submissions;

(e) if the development plan provides that the activity must be approved, then consent must be granted and the activity must comply with any relevant requirements in the plan or regulations;
(f) where the development plan gives the decision-maker discretion to approve or decline an application, that discretion must be exercised within the parameters described in the development plan and any applicable regulations;
(g) in either case, the development consent may have conditions attached to the extent allowed under the development plan;
(h) the applicant has access to mediation and judicial review, but has no rights of appeal on the merits of a decision to grant or decline consent;
(i) the applicant can appeal against any conditions imposed on a development consent; and
(j) third parties have no rights of appeal, but continue to have access to judicial review.

Table 35

Proposals: Planning, land use and consenting – Activities not included in the development plan (Process B)

109. For activities not included in the development plan:

(a) an application for development consent must contain an assessment of environmental effects, including cumulative effects;
(b) the application may be publicly notified or limited notified, as per the test in sections 95A(1-3) and 95B of the Resource Management Act 1991;
(c) non-notified applications must be processed within 15 working days from receipt of application;
(d) a notification decision must be made within 15 working days;
(e) if notification is required then:

i. the time limit for making submissions (written only) is 20 working days (but may be extended, at the discretion of the urban development authority);
ii. the decision maker must consider submissions but not hold public hearings; and
iii. a decision on the application must be given within 25 working days from the close of submissions;

(f) an application may be approved, approved with conditions, or declined;
(g) consents may be granted with or without conditions, to the extent allowed under the development plan; and
(h) the applicant and third parties retain rights of appeal to the Environment Court as per the status quo under the Resource Management Act 1991.

Table 36

Proposals: Planning, land use and consenting – Designations and heritage orders

110. Where a designation already exists within a development project area:

(a) the requiring authority may seek a roll-over of the designation at the time the development plan is being prepared**;**

(b) the urban development authority can recommend the removal of a designation within its area as part of its recommended development plan;
(c) the requiring authority can object (as per the objections process); and (d) final approval of either the roll-over or removal of the designation occurs through the Minister's approval of the development plan.

111. Should a requiring authority want a new designation in a development project area (whether as part of the development plan or at a later point in time):

(a) the requiring authority must obtain the prior approval of the urban development authority to notify the requiring authority's intentions to establish the designation;
(b) subject to considering the needs that will be met by the designation, the urban development authority has discretion over whether or not to approve the proposed designation;
(c) if the urban development authority decides not to approve all or part of the proposed designation and the parties cannot resolve their differences, the requiring authority and the urban development authority must present their case to the independent commissioners (as per the objections process); and
(d) the Minister makes the final determination,

Planning, land use and consenting: Key proposals	Detail	Effect of change/affected party
In decision-making on the development plan or on consent applications, the decision-maker must give paramount consideration to the strategic objectives of the development project	• The decision maker must have regard to the following matters (giving weight to them in the order listed): - the strategic objectives of the development project; - the matters in Part 2 of the RMA, which provide that Act's core purpose and principles; and - other matters listed in the relevant sections of the RMA	• Changes the weighting in decision-making toward the strategic objectives of the development project
Development plans can control development in the urban development project area	• Planning, land-use and subdivision rules in a development plan can override or effectively replace the regional policy statement, regional plan and district plan (as applicable, to the extent permitted by the scope of the powers granted)	• Places the development project area outside of the surrounding planning and development environment
Development plans will be subject to an alternative process in respect of consultation and objections	• Any interested member of the public (person) may make a written submission on the draft development plan • No formal hearing of submissions will be held • Affected parties may object to the recommended development plan • Recommended development plan and objections are reviewed by independent commissioners • Independent commissioners make recommendations to Minister • Minister has the power to approve the development plan	• Only *written* submissions received • No formal hearing is held • No appeal rights on merit to the courts, but judicial review is available • Objection rights can be exercised only by 'affected parties', not the public more generally • Independent commissioners only make recommendations to the Minister
An urban development authority can be granted the planning and consenting powers of a regional council and territorial authority	• Provides for streamlined consenting processes	• The urban development authority would be given access to powers that are currently exercised by councils under the status quo
For consents required under the development plan (including under rules incorporated by reference from existing district/regional plans) the urban development authority is the consenting authority	• Independent commissioners can undertake this role if the urban development authority chooses to delegate or is itself the applicant	• The urban development authority would be given access to powers that are currently exercised by councils under the status quo
Activity status under a development plan will be limited to permitted; controlled; restricted discretionary and prohibited	• Any activity that is not specifically provided for in the development plan is to be treated as non-complying, and will be subject to a different consenting process	• Removes the category of 'discretionary activities'

Planning, land use and consenting: Key proposals	Detail	Effect of change/affected party
Consent applications for activities expressly provided for by the development plan must be non-notified unless: • special circumstances exist; or • the activity is subject to a National Environmental Standard with a rule requiring public or limited notification; or • the development plan requires notification; or • the applicant requests notification; or • the proposed activity is one that would otherwise have required a regional council to act as consenting authority and is for a restricted discretionary activity under the development plan	• Creates a new presumption of non-notification	• Reduces the ability for the public to offer their views/knowledge • Streamlines the consenting process
Consent processing and notification times are reduced: • Non-notified applications must be processed within 15 working days • Time limit for making submissions on publicly notified applications is 15 working days • Decisions on notified applications must be made within 15 working days of close of submissions		• Provides less time for input • Streamlines processes and timeframes
Where an application is notified, written submission may be made, but no hearing will be held		• Reduced opportunity to argue a case through being heard at a hearing
An applicant has rights to judicial review, and appeal rights to the extent they relate to the imposition of conditions. Third parties (submitters) have no rights of appeal, but have access to judicial review		• Applicant appeal rights reduced to appeal of conditions only • Third parties lose rights to appeal on merit
Final approval of the roll-over or removal of an existing designation occurs through the Minister's approval of the development plan	• Urban development authority and requiring authorities to work collaboratively on the roll-over or removal of designations	• Final decision-making on roll-over designations is removed from requiring authorities
For new designations, any disagreement between the urban development authority and the requiring authority proposing the new designation is referred to independent commissioners, with the Minister having the ultimate power of decision		• Final decision-making on designations is removed from requiring authorities

Section 7

Table 37

Proposals: Infrastructure – General matters

The proposed legislation includes powers to:

112. create (declare), stop, move, build and/or alter: local and private roads; connections to state highways; and any related ancillary or underlying infrastructure such as lighting, signage, cycle-ways, and footpaths;

113. stop, move, build and/or alter: water supply, wastewater, storm water, fire hydrants, and land drainage infrastructure systems, including related trunk infrastructure and plant;

114. stop, move, build, create, extend and/or alter: any land and/or 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;

115. notify, contract with and/or require network utility operators to stop, build, move and/or alter electricity, gas, telecommunications or other privately owned utility services and to empower the urban development authority to undertake this work if the network utility operator refuses or fails to do the work in a reasonable time;

116. carry out any preliminary earthworks, construction, demolition, removal, placement or alteration works to enable infrastructure systems and services to be stopped, moved, built, declared and/or altered;

117. enter public and privately-owned land, subject to reasonable notice conditions, to undertake preliminary assessments of a development project area and to identify, define and protect infrastructure corridors and systems that will connect to a new development; and

118. vest any new infrastructure for a development project in the host territorial authority or relevant public agency or network operator at no cost to the receiving organization, with the timing of the

Table 38

Proposals: Infrastructure – Independent method for providing infrastructure

119. The proposed legislation includes powers to require the relevant territorial authority to alter or upgrade any remote trunk infrastructure systems that are necessary to support the development project, if that work is not being undertaken by the urban development authority.

120. An urban development authority can become a requiring authority under the Resource Management Act 1991 for the purposes of designating land outside the development project area on which to construct essential infrastructure to support the authority's development project(s), including the right to ask the Crown to exercise compulsory acquisition of that land.

121. An urban development authority can become an approved public organisation under the Land Transport Management Act 2003 for the purposes of accessing the Government's National Land Transport Fund for co-investment to construct major local roads or connections to state highways within the authority's project area(s).

122. Prior to exercising any powers relating to state highways or railways, the prior agreement of the relevant government agencies and/or road controlling authorities is required regarding the proposed infrastructure location, design, construction standards, levels of service, operating implications and connections to existing systems.

Table 39

Proposals: Infrastructure – Link with local government planning

123. The proposed legislation includes powers to:

(a) require that local territorial authority long-term plans, regional land transport and public transport plans and other local government statutory planning documents must not be inconsistent with the strategic objectives of development projects within the areas covered by those plans, but include no requirement that development projects are specifically identified and included in local government planning documents or budgets; and
(b) suspend part of, or recommend changes to, regional land transport or public transport plans, as they apply to a development project, where a project or service set out in the plan may compromise the proposed development or would no longer apply because of the development.

124. The proposed legislation includes powers to suspend, or require territorial authorities to temporarily or permanently cancel, create or amend local by-laws for roads, reserves and other matters as they apply to the development project. Exercising powers to suspend or require amendments to territorial authority by-laws must be done in consultation with the local territorial authority, limited to the extent necessary to meet the development project's strategic objectives and not be applied to any road safety by-laws.

Table 40

Proposals: Infrastructure – Performance requirements and standards

125. Prior to exercising any powers relating to physical infrastructure, the urban development authority must consult and collaborate with the relevant government agencies, road controlling authorities, and/or territorial authorities to establish for a development project the proposed infrastructure location, system performance requirements, construction and quality standards, levels of service, operating implications and connections to existing systems.

126. At a minimum, any new local infrastructure must meet the system performance requirements and levels of service of the existing infrastructure services networks as defined by the relevant standards and codes.

Table 41

Proposals: Infrastructure – Winding-up the development project

127. When the urban development authority or other relevant public entity owns trunk infrastructure assets at the time that the development project is wound up:

(a) if there is no debt attached to those assets, the proposed legislation includes a power to vest the trunk infrastructure at no cost in the appropriate receiving organisation;
(b) if those assets have debt or other financial liabilities attached to them, those assets can be transferred to a receiving organisation only with that organisation's prior agreement;
(c) if those assets are owned by the Crown, final approval of any transfer agreement must be made by the Minister responsible for the proposed legislation and the chief executive of the

receiving organisation; and (d) if the assets are carrying debt and no organisation is willing to receive them, ownership and debt obligations must remain as they are and any public entity that owns the assets must continue to exist until the debt is repaid, albeit solely as a holding vehicle.

128. Where there is debt associated with the assets and the receiving organisation agrees to take those assets, it would become responsible for servicing the debt. It would also inherit any revenue stream related to the asset, with which it can service those obligations.

129. Where ownership of any trunk infrastructure remains unchanged when the development project is wound up:

> (a) the territorial authority is responsible for maintenance from that point onwards; and
> (b) the territorial authority can charge a maintenance fee, which it can deduct from any revenue stream it is collecting.

130. If a private vehicle owns any trunk infrastructure assets, that vehicle can continue to own them (and collect any revenue stream) until the debt is either significantly reduced or fully repaid, at which point the private vehicle can vest the assets in the territorial authority or receiving organisation.

131. The terms on which any assets, liabilities, revenue streams, rights, obligations, designations and on-going management requirements are transferred to a receiving organisation must be negotiated between the relevant entity and that receiving organisation.

Infrastructure: Key proposals	Detail	Effect of change/affected party
Roads: The urban development authority may be given power to declare private roads within the development project area to be public roads	• Enables local land transport networks to be altered and adjusted within development projects to extend amenities to inhabitants and achieve optimum development layouts	• Affects existing property rights of owners of private roads – may be part of the land acquisition provisions and include access to compensation • The urban development authority and/or the local territorial authority would be responsible for the ongoing maintenance of the new local public roads
Roads: The urban development authority may be given power to: • alter national roads (and any underlying infrastructure) • alter or join stop, close or move local or private roads (and any underlying infrastructure)	• Enables development projects to be connected to and accessed from existing national roads, e.g. state highways and limited access roads • Enables existing local road networks and private roads to be altered and adjusted to enable optimum development layouts to be achieved and reduce local traffic congestion	• NZTA • Host territorial authority • Private road owners
Land Transport (including rail): The urban development authority may be given power to: • remove, build or alter any public transport facilities or network infrastructure associated with transport • build, modify, or alter any road, footpath or cycleway (including ancillary infrastructure such as lighting and signage) • designate land, acquire land and build or alter roads outside the development project • create, stop or alter public transport services	• Enables local public transport systems (e.g. railway stations, bus shelters, related signage) and services (e.g. bus routes, railway stations) to be extended, altered or adjusted to enable development projects to be included in the wider operating networks • Enables local land transport networks to be altered and adjusted within development projects to extend amenities to inhabitants and enable optimum development layouts to be achieved and reduce local traffic congestion. Similar to powers currently available to councils	• NZTA • Host territorial authority • Host regional council • Regional public transport providers
Water, wastewater and storm water: The urban development authority may be given power to: • construct, move, modify or alter water supply, wastewater and storm water infrastructure within the development project • designate land, acquire land and build or alter water, wastewater or storm water infrastructure outside the development project only when required to meet the development project's strategic objectives • purchase, make and maintain, enlarge, alter, extend, or repair, any drainage channel or land drainage works	• Ensures that the development project has optimum services layouts and sufficient network capacity • Enables alteration or upgrade of the existing 3-waters infrastructure services networks in neighbouring areas to ensure there is sufficient system capacity to meet the needs of the new development and address negative effects on the networks of surrounding areas arising out of the development • Enables draining of land areas required for development or upgrade drainage in anticipation of new development	• Host territorial authority • Host regional council • Affected property owners whose land might be subject to purchase or alteration

Infrastructure: Key proposals	Detail	Effect of change/affected party
Water, wastewater and storm water: The urban development authority may be given power to install fire hydrants as part of road construction	• Authorisation to install fire hydrants as part of the road to ensure optimal layout of fire-fighting capabilities for the development project when a council is not undertaking this work	• NZ Fire Service • Host territorial authority
By-laws and enforcement: The urban development authority may be given power to: • suspend local roading by-laws for development projects • recommend and require councils to cancel, create or amend local roading by-laws as they apply to the development project in agreement with council	• Can overcome specific local authority restrictions and/or constraints relating to roads. Reduces potential legislative delays that may affect delivery of the development • Power to suspend is a temporary measure to be used during the development process • Other powers are permanent measures to be used to change by-laws to reflect the changes to an area post development • By-laws related to road safety cannot be suspended	• Host territorial authority • NZTA • Host regional council (potentially depending on whether a regional by-law is affected)
By-laws and enforcement: The urban development authority may be given power to suspend other by-laws in the development project for the duration of the development and recommend and require councils to cancel, create or amend by-laws as they apply to the development project	• Can overcome specific local authority restrictions and/or constraints relating to other by-laws, for example those relating to reserves. Reduces potential legislative delays that may affect delivery of the development	• Host territorial authority • Host regional council (potentially depending on whether a regional by-law is affected)
Planning (related to the Local Government Act 2002 only): The urban development authority may be given power to require that local authorities long-term and annual plans cannot be inconsistent with the objectives of the development project	• Enables development projects and associated infrastructure requirements to be included as part of the local authority's long term and annual planning to provide certainty and consistency in future strategic decision-making and annual funding/resourcing for infrastructure	• Host territorial authority
Planning (related to the Land Transport Management Act 2003): The urban development authority may be given power to suspend the Regional Land Transport Plan (RLTP) for the development project	• Ability to suspend part of, or recommend changes to, a RLTP as it applies to the development project where a project or service set out in the plan may compromise the proposed development or ceases to be relevant because of the proposed development	• NZTA • Host territorial authority • Host regional council • Regional public transport providers

Infrastructure: Key proposals	Detail	Effect of change/affected party
Other: The urban development authority may be given power to: • vest infrastructure • carry out any earthworks, construction, demolition, removal or placement or alteration • enter into contracts for the provision of services and undertake local works	• Creates a mechanism to expediently transfer ownership of and responsibility for the ongoing management and maintenance of new infrastructure to the long-term custodian • Includes the potential for the receiving entity to take on additional debt and debt servicing obligations • Enables the entity to undertake earthworks (such as the filling of old quarries), construction, demolition, placement, removal or alteration works necessary to enable infrastructure to be built, modified, moved, extended, or altered within the development project • Enables the entity to require the provision of energy and telecommunications services to the development project, and install, move or alter the physical infrastructure associated with these services according to the requirements of the proposed design	• Host territorial authority • NZTA (for parts of national roads) • Network utility operators
Other: The urban development authority may be given power to enter onto private land for survey and inspection purposes	• Enables access to private property to undertake preliminary assessments of land and buildings to be developed for infrastructure purposes or land required for infrastructure corridors outside the development for the purposes of surveys and investigations. Also assists surveyors' access to determine new boundaries for developments • Powers are similar to current powers available to territorial authorities and network utility providers under the Local Government Act 2002, the Public Works Act 1981, the Electricity Act 1992, the Gas Act 1992, and the Telecommunications Act 2001	• Private property owners and occupiers whose land might be affected by or adjacent to a development project

Section 8

Table 42

Proposals: Funding and financing – General matters

132. An urban development authority can:

(a) buy, sell and lease land and buildings in the development project area;
(b) receive and issue grants from the Crown and others; and
(c) borrow from private lenders or banks, issue bonds or shares, create joint venture or co-investment arrangements, and enter into funding contracts.

133. The proposed legislation includes a power to levy targeted infrastructure charges on property owners within the development project area (only) that apply annually and are calculated to provide sufficient revenue to pay for infrastructure and amenities that are contained within the project area over the life of the assets.

134. The proposed legislation includes a power to direct the income from any targeted infrastructure charge to a privately-owned vehicle that has the power to raise the necessary debt to finance and own the infrastructure over the lifetime of the asset, backed by the income stream from the infrastructure charge.

135. The proposed legislation includes a power to determine and levy project specific development contributions on developers building within the project area and collect those contributions for the development project.

Table 43

Proposals: Funding and financing – Collecting targeted infrastructure charges

136. The territorial authority must collect any infrastructure charges levied by the urban development authority, forward them to the development project and carry out all related enforcement activities.

137. Any infrastructure charge is additional to the general rates for a property and applies to those properties for the lifetime of the new infrastructure assets.

138. The power for an urban development authority to levy targeted infrastructure charges is restricted to land and facilities that are contained within the development project boundaries.

139. If a power to levy infrastructure charges is proposed, that power and an indicative range for the anticipated annual charge must be included as part of consultation on the development plan.

Table 44

Proposals: Funding and financing – Cross border funding issues

140. The urban development authority can seek to recover from the relevant territorial authority an appropriate share of the costs of providing facilities and amenities that benefit landowners outside the development project area.

141. If the territorial authority does not agree to pay an appropriate share of the costs for such infrastructure, or does not agree to the amount or to any sharing arrangements with the urban development authority, the proposed legislation includes a mechanism through which the urban development authority can apply to an independent decision-maker who has the

power to determine to what extent the territorial authority will be subject to the costs of infrastructure and amenities within the area.

142. The territorial authority has no power to levy development contributions on developers operating within the development project area, but the territorial authority can seek to recover from the urban development authority a share of the costs for providing head works, trunk infrastructure and wider services and amenities that benefit land owners within the project area.

143. If the urban development authority does not agree to include within the development contributions that it levies on developers operating in the area an appropriate charge for benefits being supplied from outside the project area, the proposed legislation includes a mechanism through which the territorial authority can apply to an independent decision-maker. That decision-maker has the power to determine to what extent the urban development authority will be subject to development contributions to pay to meet the costs of head works, trunk infrastructure and wider services and amenities that benefit land owners within the project area.

144. The independent decision-maker is free to treat each matter separately on its merits, with the fundamental goal being a fair allocation of costs based on where the benefits accrue.

145. In principle, the urban development authority is liable to pay the equivalent development contributions that would otherwise have applied within the development project area, adjusted to the extent that the authority has delivered infrastructure that would otherwise have been provided by the territorial authority.

Funding and financing: Key proposals	Detail	Effect of change/affected party
An urban development authority will be able to: • buy, sell and lease land and buildings in the development project area • receive and issue grants from the Crown and others • borrow from private lenders or banks, issue bonds or shares, create joint venture or co-investment arrangements, and enter into funding contracts	• Enables funding and financing to be sourced and utilised for the construction of the trunk and local infrastructure required for a development project • Leverages land, assets and revenue streams to fund the construction of local and trunk infrastructure for the development project; could include equity and debt financing	• The urban development authority would be given access to funding powers used extensively in overseas jurisdictions to enable local and trunk infrastructure to be constructed to accommodate urban growth and to bring forward planned major trunk infrastructure projects outside of the development project area
An urban development authority will be able to levy targeted infrastructure charges on property owners within the development project area to pay for infrastructure and amenities that are contained within the development project. Any targeted infrastructure charges will be: • subject to public consultation with affected property owners • collected by the relevant territorial authority, on behalf of the development project • additional to the general rates for a property, restricted to land and facilities contained within the development project	• Provides funding for the construction of infrastructure for a development project through charging the eventual end users and the neighbouring local community who directly benefit from the new or improved systems • This charge could be levied either by the urban development authority inside the project area or the territorial authority for properties outside the development project	• Private property owners and occupiers whose land might be affected by or adjacent to a development project • Similar to other targeted rates charged by territorial authorities to fund infrastructure projects and services
An urban development authority will be able to determine and levy project specific development contributions on developers building within the development project	• Allows recovery of infrastructure costs via contributions for trunk infrastructure built specifically for the development project to accommodate the urban growth resulting from the project	• Developers/builders who might be developing sub-lots within a development project and would either pay contributions directly or through the sale price of any land
Where a power to levy infrastructure charges is proposed then that power and an indicative range for the anticipated annual charge must be included as part of the consultation on the development plan	• Intended to inform existing residents and potential investors of the potential for, and extent of, any ongoing charges that relate to the provision of new infrastructure prior to the urban development authority being established	• Existing residents within the development project area • Potential property buyers
The territorial authority will have no power to levy development contributions on developers within the development project area, but will be able to seek to recover a share of the costs for providing head works, trunk infrastructure and wider services and amenities that benefit land owners within the project area	• Any revenue sharing arrangements will need to be negotiated between the local territorial authority and the urban development authority • This will ensure that the entity undertaking any infrastructure upgrades will be provided with the funding necessary to do so	• Urban development authority • Local territorial authority

Section 9

Table 45

Proposals: Māori interests – Honouring Treaty settlements

146. The proposed legislation cannot override or amend arrangements in any legislation, deed, or deed of settlement arising from a settlement of historical Treaty claims, whether already enacted or enacted in the future.

147. The Crown and its urban development authorities would remain bound by any protocol, accord, or memorandum of understanding that has been negotiated between iwi and hapū entities and a Crown agency.

148. Land that may potentially be needed to settle future Treaty settlements (both land that has already been ear-marked for that purpose and land that may yet be needed) must be identified during the initial assessment of a proposed development project and continue to be given priority for Treaty settlements. Before any decisions are made for either the disposal or development of this land, the Minister responsible for the proposed legislation must consult with the Minister for Treaty of Waitangi negotiations.

149. If an urban development authority is granted the resource consenting functions of a regional or territorial authority, it is bound by any obligations those consenting authorities have under Treaty settlements regarding land in the development project area, such as a Statutory Acknowledgement or Deed of Recognition designation.

150. The urban development authority 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.

151. There is no proposal to change the processes required under Te Ture Whenua Māori Act 1993 (or its successor).

Table 46

Proposals: Māori interests – Process of establishing a development project

152. Owners of land held under Te Ture Whenua Māori Act 1993 (or its successor) and post-settlement governance entities that have land or capital available and have an interest in land inside the development project area are given the opportunity to develop that land as a partner in the project, or may wish to develop it themselves taking advantage of the more enabling environment.

153. The initial assessment of a proposed development project must identify all of the land in the project area in which Māori have an interest, together with the nature of that interest, and the potential opportunities to partner with those landowners to develop that land as part of delivering the project. To achieve this, the assessment stage must include engagement with relevant owners of land held under Te Ture Whenua Māori Act 1993, including their trusts and incorporations, and with relevant post-settlement governance entities and iwi and hapū groups.

154. If the proposed development project area includes land held under Te Ture Whenua Māori Act 1993 or land that has been transferred to post-settlement governance entities as part of a Treaty settlement (whether at the time of settlement or later as a result of exercising a right of first refusal), the owners of that land can choose whether their land is included

within the development project before it is established.

155. If relevant landowners elect for their land to be part of the development, then that land is subject to the same opportunities and powers as all other land within the project area.

156. If relevant landowners opt out, then that land is excluded from the geographic boundaries of the development project area, in which case the existing development rules, land use regulations and legislative framework continue to apply to that land.

157. As part of public consultation in advance of establishing a development project, officials must meet to seek feedback on a proposed project from relevant owners of land held under Te Ture Whenua Māori Act 1993, including their trusts and incorporations, and from any representative entities for claimant groups or governance entities for relevant iwi and hapū with an interest in land in the proposed project area.

158. Maintaining the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga must be a strategic objective of every development project.

Table 47

Proposals: Māori interests – Preparation of a development plan

159. During preparation of the development plan, the urban development authority must confirm:

(a) which owners of land held under Te Ture Whenua Māori Act 1993 and land provided as part of Treaty settlements have elected to include their land as part of the development project;
(b) what Crown land subject to the right of first refusal as part of Treaty settlements is in the development project area;
(c) whether the owners of land held under Te Ture Whenua Māori Act 1993 and/or post-settlement governance entities wish to develop their land as part of the development project; and
(d) what Māori cultural interests exist in the development project area.

160. The development plan must:

(a) identify Māori cultural interests in the development project area and how these interests will be catered for;
(b) show how any commitments arising out of settlements of historical Treaty claims are being complied with;
(c) not override planning provisions in regional and district planning instruments to the extent that they implement Treaty settlement legislation (except with the prior consent of the relevant iwi/hapū);
(d) give effect to any collective redress deeds and acts, deeds of settlement, deeds of agreement, or other legislation arising out of settlement of historical Treaty claims; and
(e) adopt the same level of protection for sites of significance for mana whenua usually provided for through district and regional plans.

Table 48

Proposals: Māori interests – Rights of first refusal

161. The Crown continues to be unable to sell land in a development project that is subject

to a right of first refusal under an existing Treaty settlement ("right of first refusal land") unless it has first offered that land for sale to the relevant post-settlement governance entity, with no development conditions attached.

162. The urban development authority is bound to fulfil the Crown's obligations with respect to any right of first refusal land that is vested in the authority.

163. The urban development authority can choose whether it will retain right of first refusal land for development or offer it for sale.

164. The relevant post-settlement governance entity does not have an option to exclude from the development project any right of first refusal land that falls within a development project and is purchased after the project is established.

Table 49

Proposals: Māori interests – Land assembly powers

165. The Crown continues to be able to exercise existing powers of compulsory acquisition over all land, including Māori freehold land that has been excluded from a development project.

166. Public agencies with an existing right to ask for compulsory acquisition (such as the New Zealand Transport Agency):

(a) continue to be able to ask to take land inside a development project, including Māori freehold land, but only with the prior agreement of the Minister responsible for the proposed legislation; and
(b) continue to be able to ask to take land outside a development project, including Māori freehold land that has been excluded from a project, without any need to seek that Minister's prior approval (as compared to the approval of the Minister for Land Information, which would still be required).

167. For Māori land that has been excluded from a development project, in no circumstances does an urban development authority have the power to ask for compulsory acquisition of that land for housing or urban renewal purposes.

168. An urban development authority can only ask for compulsory acquisition of Māori land that has been excluded from a development project where it has been granted the power to act as a requiring authority under the Resource Management Act 1991 and then only for public works related to utility networks (such as roads, electricity transmission lines and water pipes).

169. Māori reservations under the Māori Reserved Land Act 1955 are exempt from the proposed powers over land reserves (described in section 5).

Section 10

Section 10 of the discussion document considers other matters that do not currently form part of the proposals but for which they are seeking views on whether these should be considered for inclusion. These include:

A. Criteria or thresholds for selecting urban development projects. This could include:

- prescriptive thresholds, for example a minimum land area or minimum anticipated project cost; or
- principles-based criteria, for example considerations that decision-makers must take into account before the proposed legislation can be applied.

At this stage prescriptive thresholds are not preferred, instead of specific thresholds, the Government's proposals include checks that have been built into the process to establish a development project and grant it development powers. In addition, the Government intends to include principles-based criteria in the proposed legislation that are based on its purpose and the definition of urban development.

The government are seeking views on whether the proposed legislation should include criteria that govern the application of the legislation? If yes, what type of criteria do you suggest? If prescriptive criteria, what specific thresholds would you like to see? If principles-based criteria, what do you think the criteria should be?

B. The role of territorial authorities - Should urban development projects be able to proceed without territorial authority agreement? It is considered that local democratic processes can be dominated by interests that resist efforts at intensification and accommodating growth. Against those concerns is the fact that central government needs to partner with local government if New Zealand is to deliver the volume of urban development the country will need over the coming decades. Therefore the government is seeking views on whether we think:

- the proposed legislation should prescribe the circumstances in which a territorial authority can exercise its veto power; and
- central government should be able to establish a development project even if agreement can't be reached with the relevant territorial authority? If yes, under what circumstances do you think this should be able to occur?

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

The government is seeking a view on what transitional issues we have identified (that have not otherwise been addressed) and how these issues should be addressed. A summary of proposed transitional arrangements can be seen at Appendix 8.

D. Market provision of infrastructure.

Developers routinely construct local infrastructure in their developments, the cost of which is added to each section or building that is sold, in contrast, the larger trunk infrastructure that services these developments is normally provided by local government.

In addition to developers providing local infrastructure, the proposals have been designed to allow for the private provision of trunk infrastructure, in particular, the proposals enable private sector entities to access an annual infrastructure charge against which the private sector can borrow to construct the trunk infrastructure required.

Private provision of trunk infrastructure for development projects would have the potential to reduce the costs to territorial authorities and council-controlled organisations, as well as reducing the burden on existing ratepayers to contribute to paying for services for new residents.

The government is seeking views on whether current proposals will be able to achieve these outcomes in the context of development projects? If not, why not?

Views are also being sought on if the private sector construct and own infrastructure for a development project, backed by access to revenue from an annual infrastructure charge, and that infrastructure is eventually vested in the territorial authority (either after any debt has been fully repaid or subject to the territorial authority receiving both the debt and revenue stream), what impact would this have on the relevant territorial authority's balance sheet and its debt ratios?

Private provision of trunk infrastructure may also encourage the competing provision of serviced land, increasing diversity of choices in the land market, which would ultimately improve its competitiveness, thereby helping to contain price inflation. Private provision is already possible under existing land use and planning rules. However, the private provision of trunk infrastructure is uncommon, occurring only at a localised scale in discrete developments.

The barriers that currently prevent private provision of trunk infrastructure are unclear. Consequently, the proposals to enable this approach for development projects may not go far enough. For that reason, the Government invites further feedback on what barriers to the private provision of infrastructure currently exist and to what extent will the Government's proposals for the new legislation contribute to overcoming those barriers for development projects?

E. The role of the Overseas Investment Act 2005.

Some development projects supported by the proposed legislation will be large enough to attract overseas developers. This is a positive outcome as these developers could introduce new building innovations and systems or operate at a scale that could help deliver development projects more efficiently.

The larger the development project, the more likely it is that it will include ‘sensitive land’ as defined in the Overseas Investment Act 2005. In these cases, any ‘overseas person’ who purchases that sensitive land is subject to the screening requirements of the Act, which is likely to deter potential overseas developers. For example, the Moire Road development on former education land in Massey, Auckland that is being developed as part of the Government’s Auckland Crown Land Programme is ‘sensitive land’ because it is adjacent to a reserve, and is being developed by a subsidiary of Fletcher Building, which falls within the relatively wide definition of ‘overseas person’.

Having to fulfil the requirements of the Overseas Investment Act results in additional compliance costs for overseas developers and potential delays in delivering development projects, thereby undermining one of the objectives of the proposed legislation. In the Productivity Commission’s view, when land is purchased by a developer for the purpose of being redeveloped and resold in a reasonable time period, “no good reason seems to exist to screen foreign investment.” For that reason, the Commission recommended a review of the foreign investment screening regime for developers with a view to enabling foreign developers to purchase land without gaining consent from the Overseas Investment Office, provided that it is developed within an acceptable timeframe.

Given that overseas developers will only hold the land temporarily and will on-sell the land once they have completed the development, the Government invites your views on whether the proposed legislation should include a power (which may include terms and conditions) to completely exempt from the Overseas Investment Act screening regime any land acquisitions within a development project area that are made by developers who are ‘overseas persons’, subject to the development and resale of the land being completed within a specified timeframe. Do you think that land acquisitions within a development project area should be exempt from the requirements of the Overseas Investment Act 2005?

The questions include which of the topics in this section do you think the Government should address in the proposed legislation (if any) and what do you see as the key risks and opportunities associated with addressing any of these topics in the proposed legislation?

<u>Summary of key proposals for transitional matters</u>

- During preparation of the new development plan, existing land use regulations will continue to apply and existing resource consents will continue to be valid.

- The relevant resource consenting authority will be required to notify the urban development authority of any resource consents applied for within the project area after the development project is established.

- If the urban development authority has been granted planning powers, the authority will be able to 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 the development project area, provided it is necessary for the project’s strategic objectives.

- To accommodate new development plans in the wider planning system, when a territorial authority is reviewing its district plan and making decisions on plan changes, it will be required to have regard to the importance of integrating a development plan with its

surrounding planning context. Similarly, a regional council will be required to have regard to the same matters when reviewing its regional policy statement.

- The relevant territorial authority's long-term plans, regional land transport and public transport plans and other local government statutory planning documents must not be inconsistent with the strategic objectives of development projects within the areas covered by those plans, but there will be no requirement that development projects are specifically identified and included in local government planning documents or budgets.

- If a development project is established in an existing urban area, the owner of any network infrastructure will continue to own and maintain its assets inside the development project. Only if the development plan calls for infrastructure assets to be removed, relocated or upgraded might those existing assets cease to be the responsibility of their current owner and become the responsibility of the urban development authority.

- After it has been constructed, there will be a power to vest any new infrastructure for a development project in the host territorial authority or relevant public agency or network operator at no cost to the receiving organisation. (See related proposals in section 7.)