Urban Development Authorities

DISCUSSION DOCUMENT

February 2017

New Zealand Government

Urban development authorities at a glance

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

It is proposing a tool-kit of enabling powers that could be used to streamline and speed up particular large scale projects, such as suburb-wide regeneration. 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.

The projects would be planned and facilitated by publicly-controlled urban development authorities, potentially in partnership with private companies and/or landowners.

The Government would decide which enabling powers could be used for particular projects; not all powers would be granted for all projects.

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.

The powers potentially available for an urban development project would relate to:

- Land – powers to assemble parcels of land, including existing compulsory acquisition powers under the Public Works Act 1981.
- Planning and resource consenting – powers to override existing and proposed district plans and regional plans, and streamlined consenting processes.
- Infrastructure – powers to plan and build infrastructure such as roads, water pipes and reserves.
- Funding – powers to buy, sell and lease land and buildings; powers to borrow to fund infrastructure; and powers to levy charges to cover infrastructure costs.

An urban development authority would not have building consenting powers.

None of the proposed powers would override any Treaty of Waitangi settlements. National environmental standards would also have to be met.

The relevant powers would only apply to a particular project and would expire when the project is completed.

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Minister's foreword

The growth of New Zealand cities has predominantly occurred historically by expansion of the urban footprint into the surrounding countryside. The development framework and rules have been designed for this. We are, like many developed countries, entering a new phase of city development involving substantial redevelopment of existing urban areas.

The proposals set out in this discussion document provide a framework and more effective mechanisms for publicly-controlled urban development authorities to undertake large scale developments to support more dynamic and successful cities that better meet the needs for housing, employment and amenity.

Urban redevelopment projects can require a reconfiguration of infrastructure like roads, services and open space, and a different layout of property titles. This is very difficult to achieve with the complex array of existing statutes that are not tailored or designed for these sorts of projects.

Countries like Australia, the United Kingdom, Canada and the United States have recognised this by providing special purpose urban development authorities with a unique range of powers so as to support development and renewal of urban areas. Successful examples like Barangaroo in Sydney, the London Docklands, Roosevelt Island in New York, and Marina Bay, Singapore highlight how these sorts of powers can play a powerful role in the success of modern cities.

This initiative is part of the Government's ongoing and comprehensive programme to grow the economy and improve housing supply and affordability. Urban development authorities can support these goals by enabling better quality and faster regeneration of our cities.

Hon Dr Nick Smith

Minister for Building and Construction
Minister for the Environment

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Section 1: Overview of Urban Development Authorities

The Government wants to allow major urban development projects to be built more quickly, to deliver more dynamic and successful cities.

Urban development that benefits the wider public interest

As our population grows, the Government wants to accelerate the building of new communities and the revitalisation of existing urban areas to deliver vibrant places to live and work. It is important that New Zealand cities remain progressive and attractive for social, economic, cultural and environmental reasons.

Rejuvenating our cities requires flexibility to plan and develop new communities for current and future generations.

The legislative changes that the Government is considering will accelerate urban development projects that offer benefits to communities, including increasing the amount of affordable housing and the provision of necessary infrastructure.

The changes will enable publicly-controlled urban development authorities to access powers to acquire parcels of land and then plan and oversee the necessary development. Developments could include housing, commercial premises, associated infrastructure, and amenities including parks, community spaces or shopping centres. Projects could also be greenfield and part of city expansion.

Each urban development authority would have powers tailored for each project, and the powers would expire at the end of the project.

Bringing together land parcels for development

Coordinated planning across sizeable areas of land will make for better integrated and more affordable developments. Large scale developments also make it easier to plan and deliver community facilities and the necessary infrastructure to support the development. However, at times it is difficult to coordinate such developments, especially when there are different land uses and owners within an identified area.

The Government proposes that urban development authorities will be able to bring together larger land parcels through a combination of acquiring government or council-owned land, buying land from private owners, and as a last resort asking the Minister for Land Information to use existing powers under the Public Works Act 1981 to compulsorily acquire land in the proposed project area.

There is also potential for an urban development authority to ask the Minister of Conservation to agree to include some land set aside for scenic, historic or government purpose reserves. Nature and scientific reserves will be protected and will not be included under any circumstances.

Planning and resource consenting

Urban development authorities will prepare a development plan in consultation with stakeholders for the proposed project and will then consult the local community on this plan.

The Government proposes that, in appropriate cases, the development plan can override existing and proposed district or regional plans, or parts of them. This would not happen automatically, but only in circumstances where the Government believes that the public benefit of the project is sufficiently high to justify it. Examples of where a development plan might contain different requirements include where there is inefficient housing density or there are height restrictions within the project area.

Infrastructure funding and construction

Infrastructure requirements such as power and water, roads and other public and community amenities are essential parts of well-functioning, liveable cities. Currently, responsibility for planning and delivering infrastructure for new developments is divided between private developers, local councils and national authorities.

It is proposed that urban development authorities would be able to coordinate the planning and development of infrastructure, including connecting with networks outside the development project area. These authorities would also need to pay for infrastructure related to the project. This means allowing authorities the flexibility to raise funds for this infrastructure, outside of how local government normally achieves this, with the ability to levy infrastructure charges on relevant landowners.

Checks and balances

While the intention of these legislative changes is to accelerate development through streamlined land acquisition, planning and approval processes, there will still be opportunities for people to have a say at various points during the development process. This means communities are able to have their say on how the development project is set up, on the shape it may take, and then on any detailed plans that are developed throughout the process.

Landowners may also be able to partner in a development project. This could include private sector partners such as construction companies. Urban development authorities, however, will continue to be controlled by central or local government, to remain accountable to the public for decision-making.

How will the proposed legislation work in practice?

To help readers understand how the proposed legislation could be used, we have presented a hypothetical scenario where the powers might be applied. The scenario is set out in Appendix 2.

Have your say

We are interested in your views. This document sets out the proposals in detail and invites your comment. Please see pages 8-10 for more information on the consultation process.

Why we are consulting

We are seeking your feedback on proposed new legislation that will enable central and local government to accelerate and support urban development projects undertaken by urban development authorities. Your feedback will be considered in refining and improving the proposal before Government makes any final decisions.

Document structure

This proposal is likely to be of interest to a range of audiences. Therefore, we've provided both an easy-to-understand introduction for the general reader (section 1) and more in-depth information for those who want a more detailed discussion (sections 3-8). The discussion document is set out as follows:

- **Section 1** provides a short summary of the proposal.
- **Section 2** outlines why we need new legislation to support urban development projects.
- **Sections 3 and 4** set out the proposals for the framework and processes of the proposed legislation, and for urban development authorities.
- **Sections 5–8** detail the proposed powers relating to land assembly and reserves; planning, land use and consenting; infrastructure; and funding and financing. A summary of the proposed changes can be found at the end of each of these sections.
- **Section 9** recognises and discusses Māori interests in the proposals.
- **Section 10** describes other matters that do not currently form part of the proposals, but that the Government would like to seek your views on.

Out of scope

The following topics will not be considered in this discussion document or during the further development of this proposal:

- the planning and consenting system as a whole; and
- any ability for urban development authorities to access powers under the Building Act 2004 and the Building Code.

How to have your say

The Government invites written comments on the proposals by 5pm on 19 May 2017.

You are welcome to make submissions in response to some or all of the questions set out on page 10. You can choose which proposals to submit on. You do not need to respond to all of the specific proposals.

Any person or organisation can make a submission. Your submission may incorporate any relevant material.

A submission may range from a short letter on one of the proposals to a substantial response covering multiple proposals. **Please include your name, organisation (if relevant) and contact details**. Please also provide relevant facts, figures, data, examples and documents where possible to support your views. We appreciate receiving an electronic copy of posted submissions, preferably in Microsoft Word or searchable PDF format.

You can provide feedback in the following ways:

- write a submission and return it to us via email at: UDAConsult@mbie.govt.nz
- or post it to:

  Construction and Housing Markets, BRM
  Ministry of Business, Innovation and Employment
  PO Box 1473
  Wellington 6140
  Attention: Urban development authorities consultation

- or complete the survey online (available here from late February).

You can request a hard copy of this document by emailing your name and postal address to: UDAConsult@mbie.govt.nz.

Next steps

The Ministry of Business, Innovation and Employment ("MBIE") will analyse all submissions it receives, and will provide a summary report to the Minister for Building and Construction. Your feedback will inform the Government's decisions on the proposal to create new legislation for urban development authorities.

If the Government introduces new legislation for urban development authorities to Parliament, there will be a further opportunity to provide input when the proposed legislation is considered at Select Committee.

Your submission may be made public

MBIE intends to post its report on public submissions on its website at www.mbie.govt.nz except for material that may be defamatory. We will consider that you have consented to this unless you clearly specify otherwise in your submission.

Submissions may be the subject of requests for information under the Official Information Act 1982 ("OIA"). Please set out clearly in your submission if you object to the release of any information in the submission and, in particular, which part (or parts) you consider should be withheld together with your reasons for withholding the information. Examples could include that you have provided commercially sensitive material, or you have privacy concerns. MBIE will take such objections into account when responding to requests under the OIA. Any decision to withhold information requested under the OIA can be reviewed by the Ombudsman.

Any personal information you supply to MBIE in the course of making a submission will be used by MBIE only in conjunction with matters covered by this document. Please clearly indicate if you do not wish your name to be included in any summary of submissions that MBIE may publish.

Questions for submitters

We are seeking your feedback on the overall proposal to enact new legislation as well as the specific proposals which are included within the overall proposal.

Sections 3–9 of this discussion document contain a list of specific proposals, numbered 1-169. When providing feedback on a specific proposal, **please indicate the proposal number so that we can clearly identify which proposal your comments relate to**.

Questions to guide your feedback are outlined in the box below. You are welcome to respond to as many of the questions, on as many of the proposals, as you wish. You do not need to respond to all of the proposals.

On the proposal in general:

1 To what extent do you agree (or disagree) with the overall proposal to enact new legislation?

2 What additional development powers would you like to see enacted in the proposed legislation (if any)?

3 What additional limitations or protections would you like to see included in the proposed legislation (if any)?

Questions on individual proposals:

For each proposal in this discussion document (please quote the proposal number):

4 Do you agree with the proposal as it is presented?

5 If not, are there any changes that could be made to that proposal that would mean you would support it; and, if so, what are they?

6 If not, why do you disagree with that proposal, including—

- What do you see the impacts of the proposal being (positive and negative, intentional and unintentional)?
- What do you see as the risks of the proposal?

7 Do you have any alternatives to the proposal that would achieve the same or better outcomes? If so, what is the alternative and why do you consider it is preferable to the proposal?

Section 2: Why do we need new legislation to support urban development projects?

New Zealand is experiencing a number of challenges related to its urban environment and the government has limited legislative tools with which to respond. As a result, the Government is considering the need for legislation that supports urban transformation.

The first generation of urban expansion in New Zealand has occurred in greenfield subdivisions on the fringe of urban areas. But as our cities grow, land values have risen in the suburbs closer to urban centres. As the buildings on the land age and people's needs change, the use of the land in these existing suburbs becomes increasingly inefficient. This is driving the opportunity for the redevelopment of existing urban areas at a scale and pace that New Zealand has never had to support before.

The legacy of sustained low housing supply

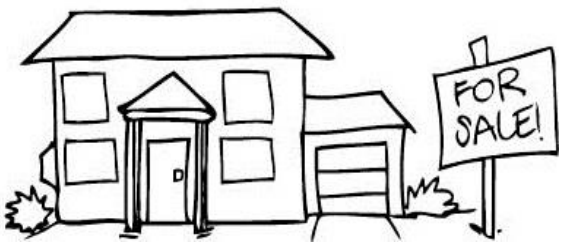
The supply of new housing in New Zealand fluctuates with the economy. In the wake of the Global Financial Crisis, the number of new homes receiving a building consent fell to its lowest level in 50 years. More problematically, it remained low for over half a decade.

The sustained period of low housing supply has generated a significant backlog that will take some years to overcome.

Rising house prices

Uncompetitive land markets drive housing costs higher and higher. Land market constraints are primarily due to planning rules, the costs of overcoming land-use restrictions and infrastructure shortfalls.

This has led to New Zealand house prices becoming increasingly more expensive relative to incomes over the past 25 years, from a long-term historical average of around three times household income to around ten times in Auckland. Increasing housing unaffordability leads to poor social outcomes, lower economic performance, increased fiscal costs and greater macroeconomic risks.



Meeting expected population growth is a challenge

Depending on the future trajectory of Auckland's population growth, at least two cities the size of Tauranga (approximately 100,000 dwellings) and possibly one city the size of Christchurch (approximately 150,000 dwellings), will need to be planned, developed and constructed within existing areas of Auckland over the next 15 years. There are also a number of other cities managing high growth, which could face similar requirements for accelerated development, albeit at a smaller scale.

Restricted residential development is impacting national economic performance

Rising house prices, especially in Auckland, are having adverse effects on New Zealand's economic performance. Housing market imbalances pose a threat to financial and economic stability and undermine the ability for monetary policy to manage inflation.

The way cities create value is fundamentally changing

Cities that are productive, competitive and sustainable in the modern world are very different from the economically successful cities of the past. Reductions in the cost of transporting goods and a decline in the importance of manufacturing in developed economies have greatly diminished some of the main advantages that cities once provided.

Economic growth is becoming more about improving productivity by facilitating high value, knowledge-intensive, service-oriented economic activity. These industries rely on attracting and maintaining communities of skilled workers. Research suggests that vibrant and liveable cities disproportionally attract such workers. [1] This means that it is important for policymakers to encourage the development of urban environments that are attractive, culturally rich, and that provide a wide range of easily accessible amenities.

Some of our urban centres are in decline

Not all the challenges faced by our urban centres relate to growth. Some urban areas are in decline and may need to undertake redevelopment in order to create opportunities for economic renewal. Enabling innovation and transformation in these areas can be difficult under the current legislative regime.

Cities that are experiencing static or declining populations face challenges that may require urban development interventions in order to create opportunities to attract investment and stimulate economic growth.

Key challenges when responding to these issues

Governance

There is no requirement for territorial authorities to take national interests into account when making decisions concerning urban development in its area; and there is a lack of statutory authority for the Crown to participate directly in urban transformation activities at regional or local level. Consequently, the drivers for decision-making can fail to provide sufficient support when there is a public interest in large-scale urban development.

Coordination

No single public entity is responsible for all aspects of urban development and there is limited coordination of national, regional and local planning and implementation for large-scale urban development.

Land fragmentation

Especially in existing urban areas, the private sector has difficulty assembling useful parcels of land from fragmented groups of properties to form a commercially viable development.

[1] T Clark, et al (2002), *Amenities Drive Urban Growth*, Journal of Urban Affairs.

What is being proposed?

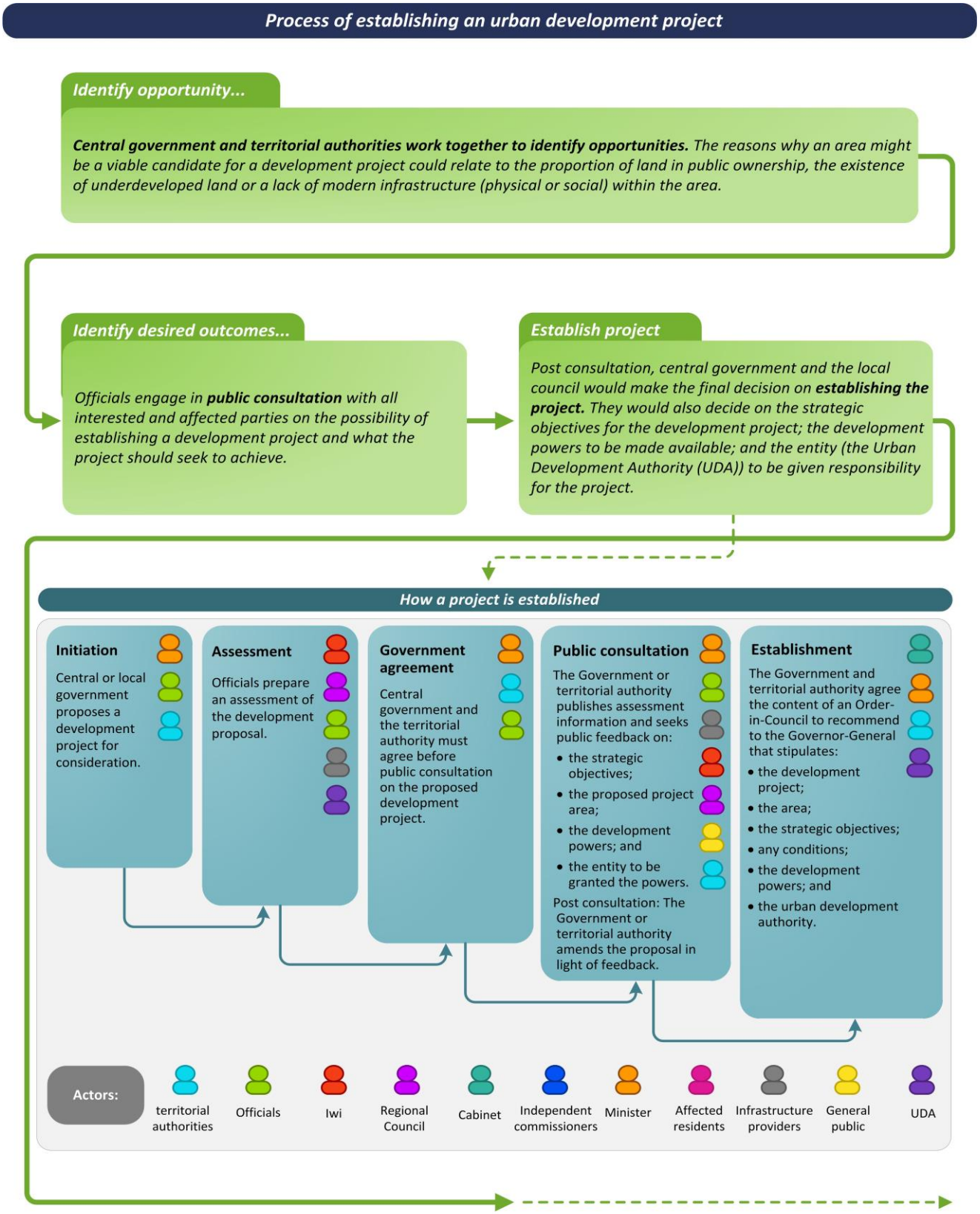
The proposals for new legislation in this discussion document will allow central government and territorial authorities to allocate more enabling development powers to identified urban development projects. Projects will be selected on the basis of being complex or strategically important, either from a national or local perspective.

The powers will be given to public entities that will be known as urban development authorities. A development plan for the development project will be collaboratively prepared by the urban development authority, alongside the community, local government, iwi, local business owners and infrastructure providers.

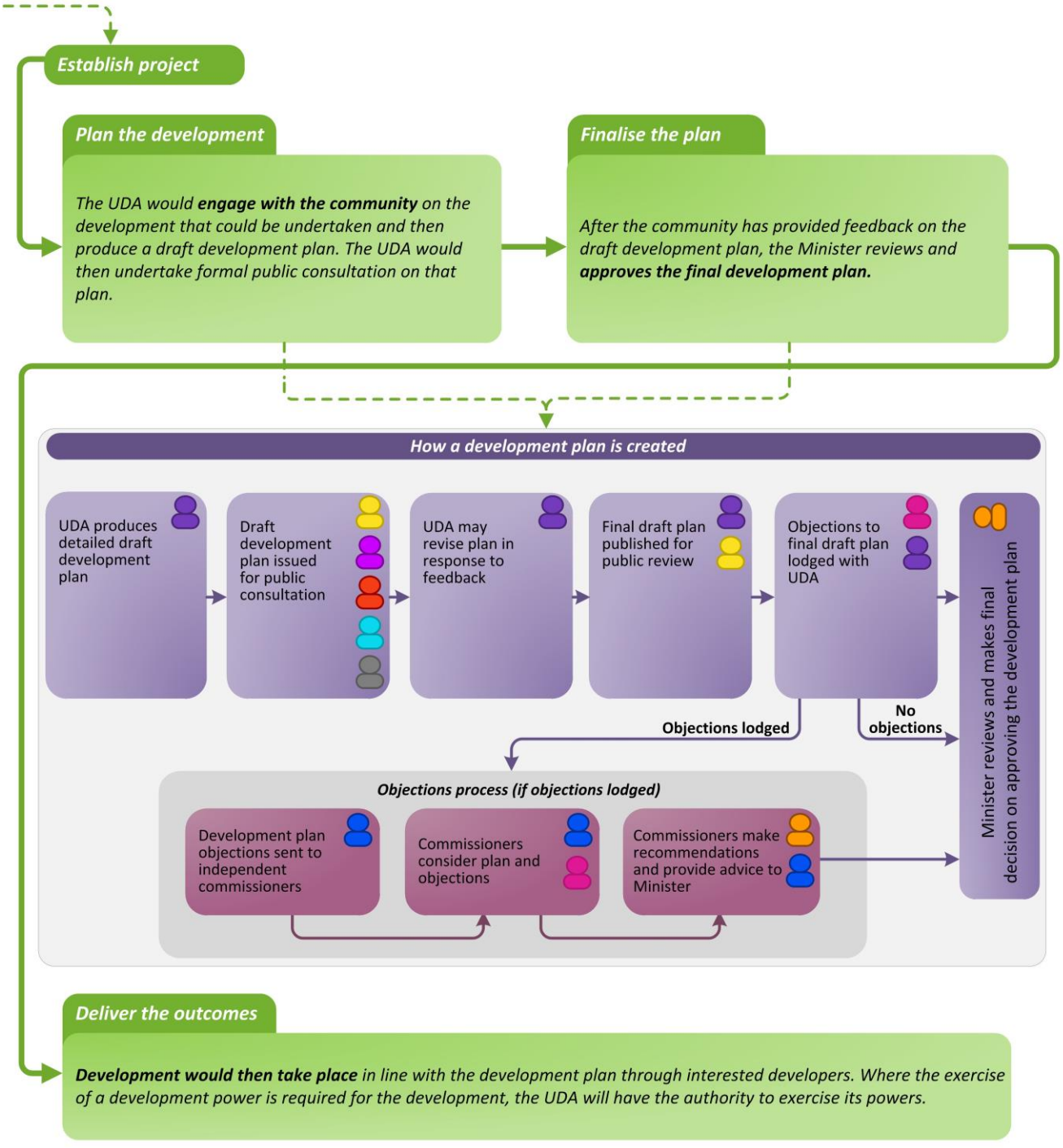
Development projects will be required to achieve clearly-defined strategic objectives, which will be set by central government and territorial authorities when the project is established. The enabling development powers will only be available within the boundaries of the urban development project, and only until the strategic objectives are met and the project is completed.

The core components of the proposal are described in more detail in section 3. **A diagram summarising the proposed processes is on the following two pages**:

Diagram of proposed processes



Process of preparing a development plan

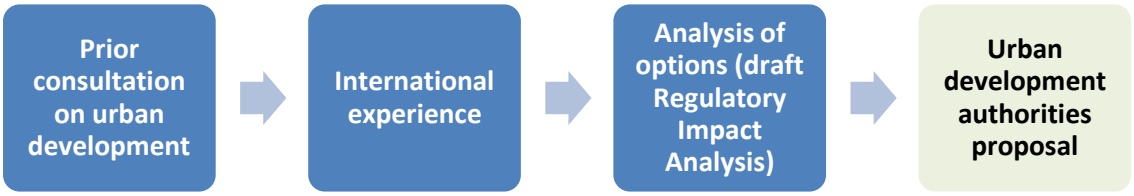


Potential benefits of legislation

- *more effective, large-scale urban development;*
- *better integration between land use and transport systems;*
- *increased planning certainty and incentive for developers to participate in large-scale urban development;*
- *increased access to private sector investment in urban development; and*
- *better return on public sector infrastructure investment.*

How was the proposal developed?

The proposal outlined in this document builds on the following:



Prior consultation on project-based urban development

The project-based approach to urban development proposed in this document has been informed by two broad public consultations:

Building Sustainable Urban Communities discussion document

In 2008, the Government issued the *Building Sustainable Urban Communities* discussion document, which invited input and advice from the public on ways to encourage urban development in New Zealand. The document outlined a range of issues associated with housing affordability, changing demographics, climate change, options for tools and powers to support urban development, and a possible project-based approach to bring those elements together.

102 submissions were received. Most submissions supported the proposal, identifying the following particular benefits:

- the ability to complement economic development initiatives;
- holistic benefits produced from masterplanning developments;
- opportunities to reduce environmental impacts and increase resilience of developments;
- opportunities for innovation and creativity in development; and
- improved infrastructure planning and delivery.

Submitters also identified a number of challenges, such as:

- the need to balance a streamlined process with the importance of taking the time at the 'front end' to build understanding and acceptance of change within cities and towns;
- iwi capacity and capability to engage in urban development processes and to be in a position to invest in development;
- the need for the new approach to be part of wider Government reforms (in particular, resource management reform); and
- the need for urban development projects to link with the wider context (beyond the boundaries of the project).

Productivity Commission's report: Using Land for Housing

In 2015, the Productivity Commission delivered its *Using Land for Housing* report. To better enable urban development, the Commission recommended that Government enable particular development projects to operate with different powers and land use rules.

In the Commission's view, enacting more enabling powers to support a project-based approach is justified to accelerate the development of significant projects in ways that could not be carried out by the private sector alone. The key aims of a project-based approach are to:

- assemble public landholdings with private landholdings to allow development on the required scale to promote urban growth in both greenfield and brownfield areas;
- coordinate and integrate the delivery of infrastructure;
- spatially masterplan significant projects;
- partner with private sector developers to deliver those projects; and
- operate under streamlined planning and consenting processes.

To support the aggregation of land, the Commission also recommended that the Government grant powers of compulsory land acquisition to urban development authorities, subject to the existing protections of the Public Works Act 1981. It also recommended that the Government limit urban development authorities' obligations to offer publicly owned land that has been significantly redeveloped back to its former owners.

Given that city-level urban development authorities already exist in some regions and more are being established, the Commission concluded that creating a national urban development authority is likely to be counterproductive to the long-term positive relationship between central and local government that is necessary to overcome housing issues. The Commission therefore specifically recommended against a national urban development authority.

International experience

Legislation to support targeted urban development projects has a long history overseas. Generally, such legislation focuses on supporting a new entity to facilitate development of a particular area.

Further detail, including a table comparing the proposal in this document with Australian and United Kingdom examples, is attached as Appendix 3.

Analysis of options

A draft consultation Regulatory Impact Statement (RIS) has been prepared by the Ministry of Business, Innovation and Employment to explain the analysis supporting the proposals in this discussion document.

The RIS provides an analysis of options to improve urban development outcomes in New Zealand and assesses the case for enacting legislation that provides a wide range of powers to support nationally or locally significant urban development projects.

Your feedback on the proposals in this discussion document will inform the finalisation of the RIS.

The draft consultation RIS is available here on the Ministry's website.

How does the proposal fit with other Government initiatives?

The Government has commissioned a number of initiatives to improve the urban development system overall. These include the **Resource Legislation Amendment Bill** and the **Productivity Commission** inquiry into **Better Urban Planning**.

The new legislation proposed in this document is intended to complement the Government's recent introduction of a **National Policy Statement on Urban Development Capacity** ("NPS-UDC") and the **Housing Infrastructure Fund**.

The NPS-UDC will require territorial authorities to provide sufficient land capacity for housing and business needs. While the legislation proposed in this document is one tool that could assist territorial authorities to provide that land capacity, its value also lies in better enabling the actual development of the desired housing and buildings. The NPS-UDC is part of the systemic planning framework for cities, whereas the proposed legislation set out in this discussion document provides the tool-kit for more rapid implementation to support the sorts of urban transformation described above. The initiatives will therefore work in unison.

The Housing Infrastructure Fund provides funding to territorial authorities for infrastructure and, therefore, also supports development. While the proposed legislation includes powers to fund infrastructure, it does not provide the actual funds. Consequently, both initiatives can be used together: the proposed legislation to establish and better enable a development project, whose infrastructure could be part financed by the Fund.

Section 3: Framework and processes

The proposed legislation will provide government with a range of development powers that support urban development; provide greater coordination, certainty and speed; and are capable of supporting a wide range of development projects, including for housing, commercial and economic development purposes.

A. Framework of the proposed legislation

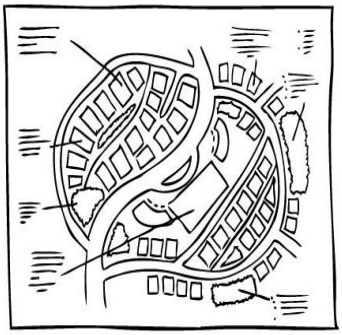
The Government proposes to develop new legislation that enables local and central government:

- to empower nationally or locally significant urban development projects to access more enabling development powers and land use rules; and
- to establish new urban development authorities to support those projects where required.

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

Core components

The Government proposes that the new legislation provide an enduring legislative tool-kit to meet the ongoing needs of urban development. The proposed legislation will describe the nature and extent of a wide range of development powers, together with how and when those powers can be deployed.



The Government proposes that the legislation will have no effect until the Government allocates the development powers to a particular development project. Even then, the proposed legislation will only take effect within the geographic area identified for that development project.

With the prior agreement of the relevant territorial authority, the Government will determine the key elements of each development project, in particular the strategic objectives for which the project is being established. These objectives can include requirements for public good outcomes (such as a certain proportion of social housing). A key strategic objective of all development projects will be to ensure the relationship of Māori with their land and other taonga is maintained. The choice of development powers must reflect those strategic objectives.

Some development projects may only be granted a limited number of development powers, while others may have access to the full range. The development powers that are granted can be subject to conditions or limitations tailored to the particular development project. The

Government may also direct that the development project provide for Māori land owners, hapū or iwi authorities and post-settlement governance entities.

The development powers will only be available for the identified development project, for the duration of the development. They will not be available generally.

Once a development project has been established, the entity that has been granted the development powers is the urban development authority. It determines if and when each development power is exercised in relation to the development project, subject to any conditions that the Government has imposed.

The urban development authority may also be the entity accountable for delivering the strategic objectives. Alternatively, the Government may select a different entity to take this role (see section 4).

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.

Proposals: Framework – Core components

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

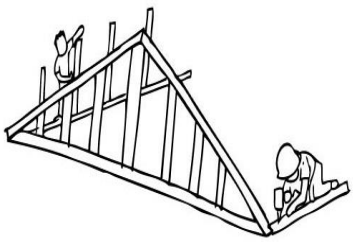
10. The urban development authority determines if and when each power is exercised in relation to the relevant development project, subject to satisfying any conditions for their use (whether those in legislation or those imposed at the time the development project is established).

Scope

Urban development

Under the proposed legislation, a range of urban development projects will be eligible for consideration, including housing, commercial and associated infrastructure projects. The Government proposes to define 'urban development' to include:

- bringing land and buildings into effective use, including through the subdivision or consolidation of land;
- encouraging the development of industry and commerce, whether new or existing;
- creating an attractive and sustainable urban environment;
- ensuring that housing and social facilities are available to encourage people to live and work in the area; and
- providing sufficient utility infrastructure, roads and public transport to support optimal urban use.



Urban locations

To be eligible for consideration, a development project will need to be an urban development, meaning the proposed legislation will not apply to rural areas. At this stage, the Government is not proposing to define what is 'urban' and what is 'rural' in any particular way (meaning that these words would carry their ordinary meanings).

If you wish to recommend that 'urban' be defined by reference to a particular threshold in the proposed legislation, the Government encourages you to comment on what that threshold should be. If a threshold definition for 'urban' is included in the proposed legislation, a development project would only be eligible if it fell within an area that met that definition.

Type of project area

Whether or not 'urban' and 'rural' are given more particular definitions, the Government proposes that the development powers included in the proposed legislation be available to

support urban development wherever this may occur, including in greenfield areas at or beyond the edge of any existing built-up area.

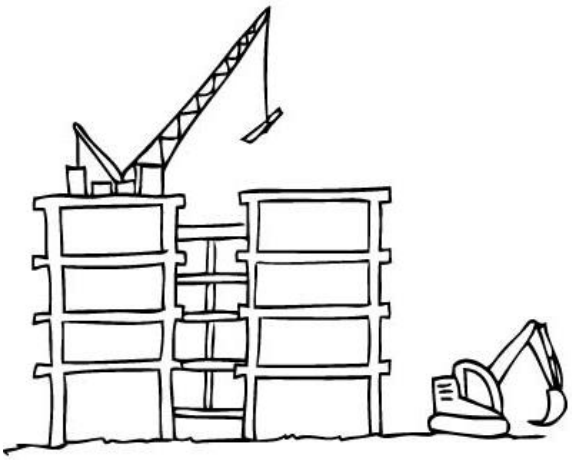
To support growth, urban development needs to encompass land that is sufficiently close to an existing town or city in order to service its growth in future, even if that land does not currently directly connect with the existing built-up area.

Geographic scope

The Government is proposing that development powers be available for urban development projects throughout New Zealand.

Although Auckland's current and projected growth provides the immediate need for the proposed legislation, urban growth in other parts of New Zealand is also expected to benefit from similar powers; if not immediately, then certainly over time.

There are unique issues facing other urban communities like Wellington (due to its tight central city and harbour location) and Queenstown (due to its strongly growing tourism industry) where an urban development authority may be the appropriate mechanism for redevelopment. The development projects will generally be in one territorial authority's area, but there may be situations involving more than one territorial authority, in areas like greater Wellington, Bay of Plenty, Hamilton / Waikato, and Nelson / Tasman, where flexibility is needed.



Duration

While the proposed legislation itself would be enduring, the Government proposes that development powers will only apply during the time it takes to realise the strategic objectives of the particular development project. This timeframe will vary depending on the size and complexity of the project. In larger cases, the powers could potentially remain active for 20 or more years.

Type of developer

Both private developers and publicly owned urban development authorities (or a combination) could access development powers for their development projects. However, in the case of private developers, even once the project has been established the Government proposes that they must apply to a publicly controlled urban development authority, who would decide whether to exercise the powers. A private developer will not be delegated the power to exercise any of the development powers.

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.

Application of the proposed legislation

Central government and territorial authorities will together select the particular development projects and areas in which more enabling development powers can apply. The intention is to enable government to act directly to support specific urban development projects at the neighbourhood level, meaning there is no intention for the proposed legislation to operate as the general urban planning framework for whole towns or cities.

The proposed legislation will not be available to private developers that own small sites. Instead, the intention is to support nationally or locally significant development projects that are complex or strategically important. The Tāmaki Regeneration project in Auckland is a good example of a current project (see www.tamakiregeneration.co.nz).

Development powers will not be limited to solely housing related projects. Commercial building and business projects with no housing component are proposed to be eligible; and projects may feature a cultural component (e.g. restoration of heritage buildings or construction of a cultural institution). It will include infrastructure that supports or enables such developments to be part of a development project, but the development powers will not be available for stand-alone infrastructure projects.

Other features that would warrant a development project being considered for legislative support include acute housing need, fragmented land ownership, large scale, major infrastructure investment, high deprivation, or location across local authority boundaries.

Types of projects could include the development of:

- areas of regional or national importance, such as the proposed transformation of Manukau;
- areas where the public owns significant land-holdings, such as suburbs with high concentrations of Housing New Zealand land;
- areas where government is investing significantly in public services or amenities, such as health or educational institutions;
- areas along new or revitalised transport corridors, or around centres identified for growth;
- large privately owned greenfield land, such as that often found on the periphery of New Zealand's cities;
- inner-city brownfield areas and under-utilised commercial and residential neighbourhoods where land ownership is fragmented; and
- under-utilised areas where there is potential for urban transformation to support local economic development.

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.

Proposals: Framework – Application

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.

Benefits

In exchange for benefitting from the proposed development powers, the profits that private sector development partners seek can be offset by public good outcomes that the Government can require from the development project. These can be stipulated as part of the strategic objectives that the Government sets when enabling a development project. Potential requirements could include the volume of housing supply, the speed of delivery, better infrastructure, affordable housing and improvements to local amenities (such as investment in local heritage or installation of public artwork).

Proposal: Framework – Benefits

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

B. Processes

The proposed processes include the following two stages (illustrated on pages 14-15):

- first, the initial assessment and establishment of a **development project**; and
- secondly, the preparation and approval of a detailed **development plan** for that development project.

Establishment stage

The first stage establishes the development project. The purpose of the establishment stage is to identify and assess potential development projects, conduct public consultation and then, for those development projects that warrant support, to formally grant them the more enabling development powers best suited to their needs.

Either central government or territorial authorities can initiate the process. 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.

There is no proposal to prescribe the source of ideas for development projects. Ultimately, however, either central government or territorial authorities must see sufficient promise in a proposed project that it is willing to undertake an initial assessment of its potential and champion it with the other branch of government. This assessment would review the opportunity and challenges the project offers in sufficient detail to support public consultation, should government choose to progress the idea further.

The party 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.[2] 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 for several development projects may have the necessary expertise to take on this role. The Government welcomes your views on this topic.

Initial assessment

The initial assessment will address those of the following issues that are appropriate for the scale and type of development involved:

- review the existing context, including the residential, commercial and social features of the project area, the current planning provisions and existing infrastructure;

[2] An example is Panuku Development Auckland.

- examine patterns of property ownership and the nature of public landholdings, including an assessment of any existing designations;
- identify all of the land in the proposed project area in which Māori have an interest, together with the nature of that interest,[3] and whether the owners of the land or relevant post-settlement governance entities would like to partner to develop that land as part of delivering the project;
- assess Treaty settlement commitments that relate to the project area;
- assess the development opportunity and the challenges that need to be overcome to realise the project, including any impact on existing infrastructure;
- define the proposed development project and its geographic boundaries;
- recommend the strategic objectives for the development project, including the public good outcomes to seek;
- recommend which of the development powers to grant to support the development project, with supporting reasons, together with any proposed conditions or constraints on the use of the powers, including the time at which the powers should become available;
- recommend the urban development authority to which to grant the development powers;
- recommend the entity to be accountable for delivering the strategic objectives (which may or may not be the same entity as the urban development authority);
- assesses the potential for any adverse environmental effects of the proposed development;
- provide a high level business case for public investment, including how commercially feasible the development is expected to be, an assessment of the likely funding required to establish the project and identification of the public land needed to capitalise it;
- estimate the cost of the social and utility infrastructure that the development project is likely to require; and
- assess the likely issues, potential impacts and risks of the proposed development project on its community, councils and existing infrastructure providers when the project is wound up.

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. If projects have already commenced (such as the Tāmaki Regeneration), the assessment will be adapted to accommodate the stage that the project has already reached.

[3] See the Māori interests in land described at the beginning of section 9.

Participation of sensitive land

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 can choose whether their land is included within the development project.

- If these owners elect for their land to be part of the development project, then it will be subject to the same opportunities and powers as all other land within the project area.
- If not, then this land will be excluded from the geographic boundaries of the development project area, in which case the existing development rules, land use regulations and legislative framework will continue to apply to the land.

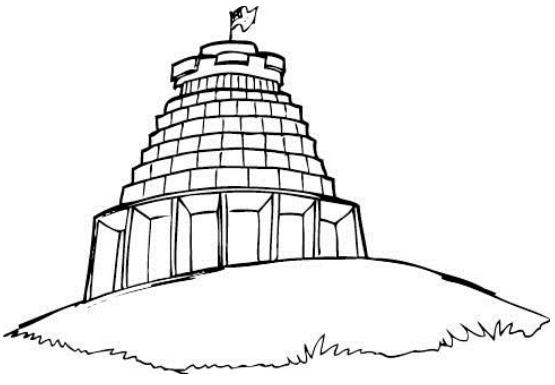
Owners of this land will be asked whether they would like their land to be included during the initial assessment.

Pre-establishment consultation

Provided the initial assessment makes the case for a proposed development project, the Government (for projects it initiates) or the Mayor of the relevant territorial authority must seek the public's feedback on:

- 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).

Any member of the public will be able to make a written submission in response to the proposed development project. Officials must meet with any relevant iwi and hapū groups and post-settlement governance entities that have an interest in land in the proposed project area, and with the relevant regional council.



Depending on who is leading the consultation, either the Government or territorial authority will consider the submissions and amend the proposal accordingly, in consultation with its government partner(s).

Subject to the outcome of consultation, and securing the agreement of the relevant territorial authority(s), the Minister will make the final

decision to recommend the project to the Governor-General, who would formally establish the development project via an Order-in-Council.

Proposals: Processes – Establishment stage

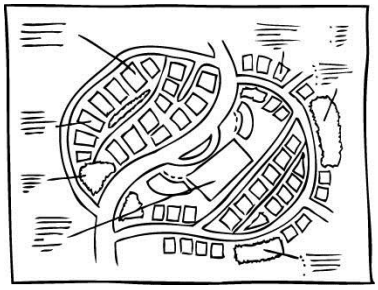
22. Territorial authorities can recommend that the Government consider a particular development project for access to powers under the proposed legislation, or the Government itself can initiate the process.
23. Prior to publicly proposing a development project for consideration, officials must undertake 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 Minister[4] 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.

[4] For the purposes of this discussion document, the term 'Minister' refers to the Minister responsible for the proposed legislation, who would be appointed by the Prime Minister.

Proposals: Processes – Establishment stage

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.

Development plan stage



Once a development project has been established, the next stage is for the urban development authority to develop and publish a draft development plan, within a specified timeframe.

In preparing the development plan, the urban development authority will be free to engage with the community as it sees fit. The authority will be required to consult with the relevant territorial authorities and regional council on the content of the draft development plan, and central government agencies that provide public services. The urban development authority can manage this process itself or contract independent commissioners to do so if it prefers.

During preparation of the development plan, the urban development authority must also 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 catered for in the development plan.

Any interested member of the public will be able to make written submissions in response to the draft development plan.

Decision-making on all aspects of the development plan will be guided by the strategic objectives of the development project.

See section 6 for the relationship between the development plan and the Resource Management Act 1991.

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.

Contents of the development plan

The required content for the development plan is outlined in the proposals below. The extent of the plan will depend on the range of powers granted and the nature of the development project.

The development plan must show how commitments arising out of settlements of Treaty claims are being complied with. Development plans must also give effect to any Treaty settlements and must adopt the same level of protection for sites of significance for mana whenua usually provided for through district and regional plans. (See section 9 for further discussion of Māori interests.)

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;

Proposals: **Processes – Contents of the development plan**

(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.

Objections

Affected persons (meaning directly affected residents, business owners and landowners in the development project area, relevant iwi and hapū, immediately adjacent landowners, requiring authorities, Heritage New Zealand Pouhere Taonga and, where the power to override regional plans or policy statements is granted, communities associated with air or water catchments that the development project area is part of) can object to the recommended development plan by making submissions in writing to the urban development authority.

Where such objections are made, the urban development authority must submit its recommended development plan and copies of all the objections to independent commissioners appointed by the Minister.

The commissioners review the objections, the authority's response to these objections, and the relevant parts of the recommended development plan. At the commissioners' discretion, further information can be requested from the urban development authority, an objector or an independent technical expert by either holding informal hearings (which are not mandatory) or by commissioning reports. The commissioners will be bound to take into account the same considerations as the urban development authority, with the same priority.

Following the commissioners' review, they are required to recommend to the Minister that either the development plan:

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

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.

Approval of the development plan

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.

Having considered the recommendations, provided the Minister is satisfied that the development plan fulfils the strategic objectives set for the project, the Minister approves the plan. The plan is then published and the proposed changes come into effect. The Minister's decision is final and not subject to appeal.

If the Minister is not satisfied, he or she can request revision of the recommended plan.

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.

Dispute resolution

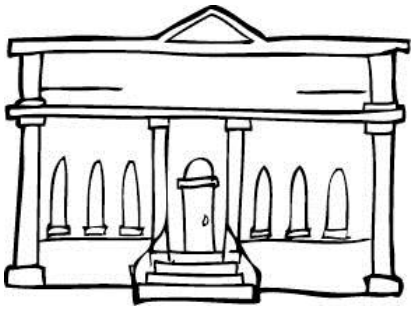
As development projects cannot exist in isolation, they need to connect and integrate with the area outside the project's borders and with the various public entities responsible. Consequently, the urban development authority will need to collaborate or seek agreement from a number of other public agencies and authorities on a range of significant issues that have the potential to result in challenges, whether at the establishment of a development project, during its life, or when it is being wound up.

As these issues have the potential to result in conflicting views, the Government proposes to include a mechanism for resolving disputes that may arise between the urban development authority and the various public and private bodies with which it needs to work.

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.

Role of territorial authorities



To succeed, urban development projects need central and territorial authorities to work together. The Government therefore proposes that no development project will be established without the agreement of every territorial authority whose area falls within the proposed project boundaries. This effectively gives territorial authorities a veto over the application of the proposed legislation.

For development projects that a territorial authority initiates, the Minister's prior agreement will be required before the territorial authority can undertake public consultation on the proposal. The Mayor's agreement will be required before the Government can undertake public consultation. Following consultation, mutual agreement will be required before the Governor-General makes a final decision on the proposed project. This means that the territorial authority and central government must both agree to the project, area, strategic objectives, development powers and urban development authority, together with any conditions.

Given the importance placed on consultation in the Local Government Act 2002, territorial authorities may feel obliged to consult on whether to agree to a proposed development project prior to the Government initiating public consultation on establishing the same project. 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. However, the territorial authority will be free to engage in further consultation if it wishes.

With respect to funding, subject to territorial authorities continuing to provide the appropriate services, they will continue to be entitled to collect rates from land owners in the development project area.

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.

Proposals: Processes – Role of territorial authorities

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.

Role of regional councils

Under the proposal, regional councils will be consulted as part of both the establishment and development plan stages. However, in contrast to territorial authorities, there will be no need to obtain the prior agreement of the relevant regional council to the development project and they will not have a veto right.

Proposals: Processes – Role of regional councils

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

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: Urban Development Authorities

The proposed legislation will allow Government to appoint urban development authorities to oversee urban development projects.

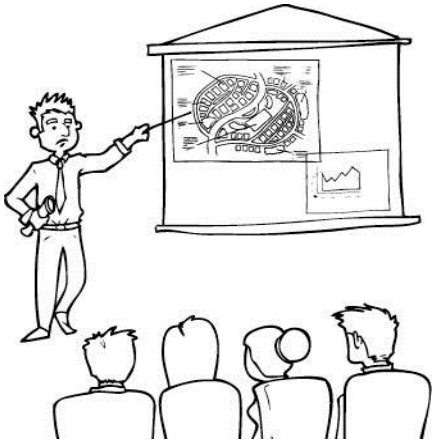
Government will be able to allocate development powers to new or existing entities, providing they are publicly controlled.

Being granted development powers will be what defines an entity as an urban development authority, not whether that entity leads the development project.

An urban development authority will have the ability to be granted development powers in respect of one or more development projects and may also be accountable for the successful delivery of each development project's strategic objectives.

Alternatively, it will be possible for the authority to be a regulator only, in which case responsibility for leading the development and realising the strategic objectives is held by another entity (also appointed at the time the development project is established).

Organisational form of an urban development authority



To provide flexibility and to cater for existing entities such as the Tāmaki Regeneration Company, the Government proposes that a wide range of existing public entities be eligible for consideration as urban development authorities (listed in the proposals below). The proposed legislation will also provide for the establishment of new statutory Crown entities as urban development authorities.

Given the likely need to partner with territorial authorities, the Government also proposes that the legislation provide for a new type of statutory entity to be created that can represent and be accountable to both arms of government (similar to Regenerate Christchurch, which was established under the Greater Christchurch Regeneration Act 2016).

Privately owned bodies will not be eligible for consideration as urban development authorities, but can be given responsibility for leading the development project and delivering the strategic objectives.

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.

Objectives of an urban development authority

The primary objective of any urban development authority will be to realise the development project's strategic objectives in accordance with the development plan. Secondary objectives could include some or all of the following:

- support and promote residential, commercial and industrial development in the public interest;
- encourage and facilitate public and private sector investment in the development projects it is responsible for; and
- engage effectively with communities, stakeholders and decision makers to achieve its purpose.

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.

Accountability and monitoring of the urban development authority

The entity leading the development project is accountable for delivering the project's strategic objectives. Where that entity is also the urban development authority, one entity is responsible for both the exercise of the development powers and the delivery of the strategic objectives. Where the urban development authority is a regulator only, the exercise of the powers and accountability for delivering the strategic objectives rests with two separate entities that must work together.

An urban development authority will have a board of directors which will be accountable to the Minister (and/or the territorial authority). Where appropriate, the Government may require the board to include Māori representation (e.g. where a significant part of the project area is owned by iwi or hapū groups or governance entities).

Ensuring new entities established under the proposed legislation have a skilled board and robust governance and accountability arrangements in place will be a key consideration when setting up the entity.

For existing entities, the Minister will need to be confident that the board has (or can get) the necessary skills, knowledge or experience before the entity can become an urban development authority. The Minister will also need to be confident the entity has appropriate governance and accountability arrangements in place.

Given that Government will be delegating authority to access development powers, there needs to be a mechanism to monitor the use of these powers. In addition, the Government needs to ensure that the activity within a development project is consistent with its expressed strategic objectives.

A central government department (such as either Treasury or the Ministry of Business, Innovation and Employment) is likely best placed to play this role. The relevant department will need the ability to ensure that:

- development powers are being used in an appropriate manner;
- strategic objectives are being used effectively to guide the development project;

- the urban development authority is abiding by any terms and conditions set by government; and
- any development plan prepared for a development project is capable of delivering on the strategic objectives and the overall objectives of the proposed legislation.

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.

Delegation of some functions to a lead development entity

The specific functions to be undertaken in respect of any development project can be broken down into two broad sets:

- urban development authority functions; and
- lead development entity functions.

Urban development authority functions include identification of potential development projects, co-ordination of urban development activity and authorising the use of development powers.

Lead development entity functions include undertaking planning within a development project; controlling investment decisions relating to land within a development project; procuring development of land within a development project; and undertaking design, marketing and financing of the development project.

It will be possible for an urban development authority to undertake both the urban development authority functions and the development entity functions, including acting as the developer. However, in those cases where an urban development authority has been appointed as the entity to lead the development project and be accountable for delivering the strategic objectives, it will also be able to delegate some or all of the development entity functions to another entity. In general, it will not be able to delegate the authority to exercise the development powers, which it will always retain responsibility for.

Where development entity functions are delegated, the urban development authority may not actually build or own any of the assets, leaving it with minimal expenses and minimal risks for its government owners. This may be attractive for an urban development authority that is a

council controlled organisation, or a body connected to councils, which could be limited in its activity by council debt constraints.

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.

Organisational form of a lead development entity

In order to allow as much flexibility as possible, there is no proposal to prescribe or limit the form of a lead development entity in the proposed legislation.

However, before delegating some or all lead development entity functions, the board of the urban development authority will need to be confident that the entity has the ability to deliver on those functions.

An urban development authority that delegates any functions in respect of a development project to a lead development entity will be accountable for the performance of that entity in delivering that project's strategic objectives.

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.

Disestablishing an urban development authority

The proposed legislation also needs to govern the completion of projects and other circumstances when urban development authorities or powers need to be removed.

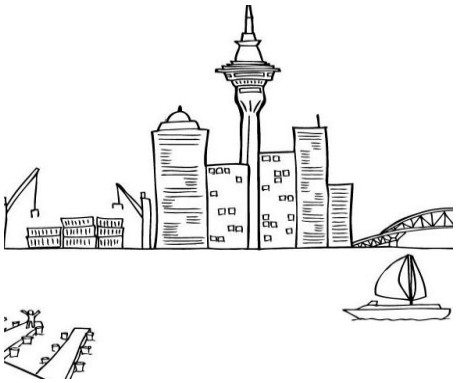
For some projects, completion may be anticipated and managed from the outset with an appropriate sunset clause in the Order-in-Council establishing the project.

In other cases, the point of completion may be too uncertain to take this approach from the outset, so the proposed legislation could enable the responsible Minister to disestablish a

development project following advice from the board of the relevant urban development authority.

Alternatively, it may be that the urban development authority is unlikely to be in a position to deliver on the strategic objectives for the development project (this includes that the urban development authority is no longer financially viable).

Ministers would have a range of tools through legislation to address these scenarios. These tools include:



- generally removing the development entity's powers once a project is complete or if there are concerns with the urban development authority's actions;
- having the ability to appoint an alternative entity as the urban development authority in respect of any or all development projects affected (either on an interim or permanent basis); and
- replacing some or all of the board, or appointing a commissioner to oversee the activity of the urban development authority.

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.

Proposals: Urban development authorities – Disestablishment

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: Land assembly, compulsory acquisition and reserves

The land assembly powers proposed for urban development projects cover both public and private land, including existing powers of compulsory acquisition, together with powers over reserves and lesser interests in land.

A. Land assembly and compulsory acquisition

As you consider your responses to the land assembly proposals below, you may wish to reflect on the prompts listed in Appendix 4.

Market based negotiations

The urban development authority will have standard corporate powers to purchase land by agreement from landowners within the development project area, and to sell it for development.

The entity that is leading the development may need to acquire a range of land within the project area to realise the project's strategic objectives.

When the urban development authority and the land owner agree, the process for transferring ownership of the land will be an open market transaction: contracts for sale and purchase of land will be exchanged, a date for settlement agreed, and the property transferred into the name of the urban development authority.

The urban development authority may also be able to offer landowners part or full payment for their land in the form of an equity stake in the development project, which would give those owners the opportunity to receive the value uplift from the project's activities.

At the moment, the Government is proposing that an urban development authority can buy land by agreement at any time after the development project is established. There are no conditions on this, but there could be; for example, the proposed legislation could require that the development plan be approved before land can be purchased through open market transactions.

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.

Compulsory acquisition

The urban development authority will be able to ask the Minister for Land Information to consider exercising existing powers of compulsory acquisition under the Public Works Act 1981 ("PWA") for all of the purposes that are currently available to central and local government. No new public works are proposed.

Current powers for land assembly are contained in a number of statutes based around the PWA. The fundamental principles of the PWA reflect international practice and include a required period of good faith negotiations (willing buyer, willing seller) before compulsory acquisition powers can be exercised.

Urban development projects are likely to encompass most of the public purposes that are considered to be public works under the PWA. Currently, central or local government has the power to acquire land by compulsion for the purposes of:

- physical infrastructure (e.g. roads, rail, utilities);
- public services or amenities (e.g. parks, hospitals, schools);
- for social, affordable, or market housing, including ancillary commercial buildings; and
- for urban renewal or development.

An urban development authority would be drawing together these public purposes into one development, and may need to acquire land for these purposes if it is unable to purchase the land through open market negotiations. Giving urban development authorities the ability to ask the Minister for Land Information to exercise PWA acquisition powers will enable streamlined acquisition by agreement and also access to compulsory acquisition procedures to meet urban development objectives.

Background

In the Productivity Commission's view, urban development needs to be supported by powers of compulsory land acquisition on the grounds that the wider public interest in development justifies overcoming third-party resistance. Accordingly, the Commission recommended that, subject to the normal processes, compensation and protections of the PWA, the Government

legislate to grant compulsory acquisition powers to urban development authorities within a development project area.

As part of a continuum of land assembly powers, compulsory acquisition used as a last resort[5] could enable an urban development authority to overcome issues where landowners 'hold out'. This could enable an urban development authority to assemble a number of smaller land parcels together to form a commercially viable development. It would also allow an urban development authority to acquire land parcels that are strategically important to a development, as well as parcels that might not otherwise be available through open market negotiations.

Proposals

The Government proposes that urban development authorities be able to access the benefit of existing powers of compulsory acquisition. These powers would be balanced by retaining final decision-making power with the Minister for Land Information, and enabling the powers to be used only within the boundaries of the development project area and only for a limited time following finalisation of the development plan.

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

Allowing urban development authorities to access the benefit of compulsory acquisition powers will increase the frequency with which these powers are used for housing and urban renewal. Consequently, the Government proposes that the legislation include the criteria and safeguards described in the following proposals to maintain certainty of property rights.

Having these safeguards in place will ensure that at the early stage of choosing an area for an urban development project, an assessment of land along with rights and interests is made. It will also enable early identification of partnership opportunities with iwi and other land owners in an urban development project. In addition, the decisions on whether to make compulsory acquisition powers available for a particular development will be informed by public input and consultation on the proposed project.

Finally, no other public agency will be able to exercise powers of compulsory acquisition over land included within a development project without the prior agreement of the Minister responsible for the proposed legislation.

Conversely, the existing powers of the PWA would continue to apply to all land outside a development project. Consequently, any land that has been excluded from a development project could still be acquired by the Crown or by a territorial authority under their existing

[5] The Productivity Commission found that compulsory acquisition powers can be effective without being exercised, by facilitating negotiated acquisitions.

powers, including at the instigation of other public agencies that currently have the right to ask for compulsory acquisition.

(Note that, in general, an urban development authority will not have access to compulsory acquisition powers over land outside a development project. However, see section 7 for a limited exception if the authority becomes a requiring authority.)

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.[6]

[6] For a limited exception, see the proposed power for an urban development authority to be a requiring authority in section 7 (infrastructure).

Proposals: Land assembly – Compulsory acquisition

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.

Value of compensation

Compensation for land that is compulsorily acquired for an urban development project would be calculated as if the development project had never commenced.

Because a development project can be expected to increase the value of the land within its boundaries (e.g. as a result of increasing the dwelling capacity of the land), the Government proposes that compensation be calculated with no allowance for any increase (or decrease) in the value of the land as a result of the project itself. This is the same approach taken under the PWA and also in Australia.

If landowners would like to access the likely increase in value, the ability for the urban development authority to offer an equity share in the development becomes an incentive for those landowners to sell by agreement rather than have their land taken by compulsory acquisition.

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.

Offer back

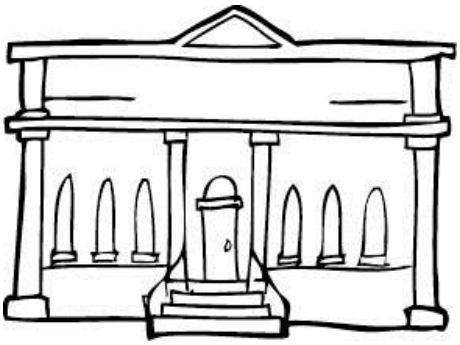
The Productivity Commission also recommended that the Government amend the Crown's statutory obligation to offer back land that is no longer held for a public work. When the land needs to be transferred to a private developer to realise the purpose of a public work, it is important that the land retains its public purpose, otherwise the decision to dispose of the land would trigger the Crown's obligation to first offer the land back to its former owner.

The Government responded to that recommendation in 2016 when it enacted the Housing Legislation Amendment Bill, which confirmed that no offer back is required when land held for housing purposes is being transferred to a developer to complete its public purpose. At this stage, the Government is not proposing to make any further changes to the Crown's offer back obligations.

Assembling public land

The Crown will have the ability to require local authorities and relevant Crown entities to transfer or re-purpose land that they own within a development project area to the Crown for transfer to the public entity responsible for leading the development.

Publicly owned land is the principal foundation on which development projects are usually established (e.g. the redevelopment of the London and Melbourne docks). The land capitalises the project, provides a source of revenue and, most significantly, provides the means with which the authority can attract further private sector investment.



Within the PWA, compulsory acquisition is already available to acquire public land from local authorities, council controlled organisations, district health boards and Crown entities (e.g. Housing New Zealand Corporation), where agreement with those owners cannot be reached.

However, when public land is required for an urban development project, in order to provide a more efficient process for assembling publicly-owned land than currently exists through compulsory acquisition under the PWA, a new power is proposed. First, the consent of the landholding entity must be sought to transfer suitable land to the urban development authority. Secondly, where consent is not provided, the Government proposes that the new legislation include a power for the Crown to require those entities to transfer the land to the Crown for vesting in the development project.

The public entity must be compensated in the same manner as it would be if the land was compulsorily acquired under the PWA. The power could only be exercised by the Governor-General (on the recommendation of relevant Ministers).

The proposed establishment stage provides for engagement with the relevant central and local government entities on the use of the public land they are responsible for within the proposed project area. Local authorities will also have the opportunity to agree to the proposed development project subject to conditions they impose. This gives the local authority the opportunity to include or exclude specific public land it owns from the urban development project.

Through public consultation, the public will also be able to see and comment on what public land is proposed to be transferred to the urban development authority.

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.

Dealing with lesser interests in land

There will be a power to remove legal encumbrances from land within the development project area (such as easements and covenants), with compensation payable for the removal of such interests.

Under the PWA there is an ability to extinguish all covenants, easements or other encumbrances that affect land that has been acquired. The owners of these interests are entitled to be compensated under the PWA for these rights being extinguished. The Government proposes that the urban development authority have access to this power. This will clear land of such rights to enable development to proceed.

This proposal will not apply to memorials that have been placed on land titles under s27B of the State Owned Enterprises Act 1948[7]. These memorials would continue to apply to the land.

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.

[7] Memorials registered under section 27B note that the land is "Subject to section 27B of the State-Owned Enterprises Act 1986 (which provides for the resumption of land on the recommendation of the Waitangi Tribunal and which does not provide for third parties, such as the owner of the land, to be heard in relation to the making of any such recommendation)."

Proposals: Land assembly – Dealing with lesser interests in land

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.

Amalgamation and subdivision

In order to combine fragmented land parcels and create new parcels for the development, an urban development authority will need to be able to easily subdivide and amalgamate the land. The scale of such developments requires a more streamlined ability to undertake such actions.

There will be a power for an urban development authority to subdivide and re-subdivide land, and consolidate subdivided or re-subdivided land that it owns within the development project area.

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.

Summary of proposed changes – Land assembly and compulsory acquisition

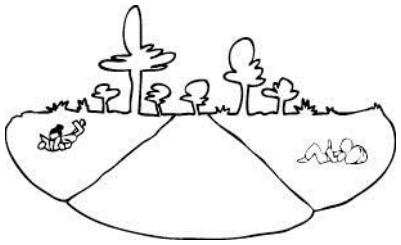
The table on page 56 provides a summary of the proposed changes, including some comment on the status quo. All proposed changes are subject to the Government granting the relevant powers for any given project.

B. Reserves

The proposed legislation will provide powers for urban development authorities to make changes to some classifications of reserves in order to streamline and fast-track development and to increase flexibility in any given scenario.

Reserves classified as nature and scientific reserves, and Māori reserves under the Māori Reserved Land Act 1955, are excluded from these proposed powers.

The purpose of the Reserves Act 1977 is to provide for the preservation and management of certain areas of New Zealand that have special features or values, for the benefit and enjoyment of the public. However, because reserves can occupy a reasonable amount of land space, 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.



General matters

Accordingly, the Government proposes that, subject to the constraints described below, the proposed legislation provide powers for an urban development authority to classify, change the classification of, revoke or exchange the types of reserves listed in the proposals below.

Nature and scientific reserves will be exempt from the powers proposed for reserves, which reflects their status as important national assets. These reserves are all administered by the Department of Conservation and are largely confined to isolated places around New Zealand that are not suitable for urban development.

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.

Proposals: Reserves – General matters

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.

Limitations on the powers

To protect the community values connected to reserves, the proposed legislation will have certain limitations on the powers that vary depending on the type of reserve:

- **Recreation and local purpose reserves** are the most common types of reserve and are likely to be located within urban areas suitable for housing and redevelopment. Powers in respect of this type of reserve will 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.
- In contrast, **scenic, historic or government purpose reserves** are likely to contain values that contribute to New Zealand's heritage (e.g. particular flora and fauna or historic features) with regional, national or in some cases international significance, particularly for some historic reserves. Should changes to these types of reserves be desired, greater constraints will apply (as described in the proposals below).

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.

Proposals: Reserves – Limitations on the powers

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:

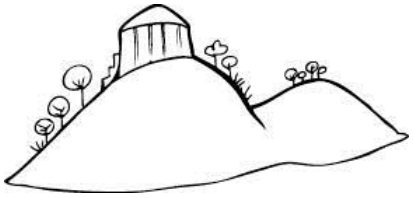
        i. the reserve does not contain natural and historic values of national or international significance which should in the public interest be retained;

        ii. the utilisation of the reserve or part of the reserve is necessary for the development; and

        iii. there are no viable alternatives.

Reserve management plans and by-laws relating to reserves

There is 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 area for the duration of the development, and 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. The entity would not have access to any powers to enforce by-laws as these powers will remain with the territorial authority.

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.

Other matters relating to reserves

In the case of reserve exchanges, the Government proposes that the new reserve must provide at a minimum for the same purpose and values as the original reserve as well as being in close proximity to the community that the original reserve served, if at all practicable.

If reserve land is sold, the proceeds will be treated in the same way as they are now. Under the Reserves Act 1977 the Minister of Conversation can decide whether to spend the proceeds from the sale of land, which has had its reserve status revoked, on other reserves.

As under the Reserves Act 1977, any actions or decisions regarding reserves would also need to take into account the obligation under section 4 of the Conservation Act 1987 to give effect to the principles of the Treaty of Waitangi in the administration of reserves. Decisions would also be bound by any relevant legislation giving effect to the settlement of claims under the Treaty.

The detailed development plan that is publicly consulted on must contain any proposed changes to reserves, so that the public has a chance to comment on them.

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 – Reserves

The following table provides a summary of the proposed changes. All are subject to the Government giving the relevant powers for any given project.

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: Planning, land use and consenting powers

The planning, land-use and consenting regime proposed for urban development projects will shift the balance of matters that must be considered in decision-making towards the strategic objectives of the development project.

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, where local opposition and associated RMA processes can cause a private plan change process to take several years.

Current amendments to the RMA will help to make development easier in 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. These powers would sit within and draw on the wider resource management legislative regime, but change its application to such projects. To distinguish between the two, resource consents are referred to as 'development consents' in the context of a development project.

A glossary of terms for planning, land use and consenting

A **District Plan** is created by a city or a district council. It concerns the management of land use and subdivision and covers things such as noise and the location and height of buildings.

A **Regional Plan** is created by a regional council. Regional councils must prepare regional coastal plans and may prepare plans for other issues that affect air, water or land. Regional plan rules cover things such as the discharge of wastewater from factories into waterways.

Resource consent is permission for an activity that has a rule or rules applying to it in a district or regional plan because it might adversely affect the environment.

A **plan change** is the process that councils use to prepare changes to an operative plan.

A **private plan change** is a plan change initiated by any person (except the council) to an operative council plan.

Regional Policy Statements must be prepared by all regional councils and help set the direction for the management of all resources across the region.

National level RMA instruments include the New Zealand Coastal Policy Statement, national policy statements, national environmental standards, and regulations.

Notified and non-notified applications: Resource consent applications are generally notified if the council considers the effects on the environment are likely to be more than minor (approximately 2% of applications are notified).

Decision-making considerations

Regard for the strategic objectives will take priority whether the urban development authority is granted planning powers over the development project area or those powers are retained by the territorial authority or regional council.

The Government proposes that decision-makers must have regard to the strategic objectives as their first priority, giving these the greatest weight, and then have regard to Part 2 of the RMA as their second priority.

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;

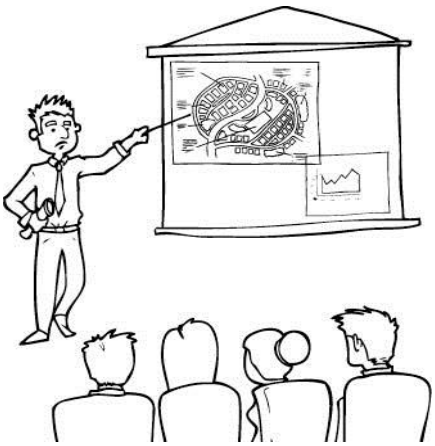
    (b) secondly, the matters in Part 2 of the Resource Management Act 1991 ("RMA"), which provide that Act's core purpose and principles; and

    (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.

Role of existing RMA instruments and entities

If the Government grants powers to do so, development plans will be able to override the district plan, regional plan and regional policy statement that would otherwise apply to the development project.

As with all of the powers under the proposed legislation, the Government will have discretion over the selection and extent of the powers that are granted.



To accommodate new development plans in the wider planning system, territorial authorities will need to have regard to the importance of integrating a development plan with its surrounding planning context when reviewing their district plans. Regional councils will also need to have regard to this when reviewing their regional policy statement.

The Government also proposes that an 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). But in

any case where the urban development authority is both the consent applicant and consent authority, compliance and enforcement powers will rest with the relevant local authority.

During the period after a development project has been established and before the development plan takes effect, local councils will need to notify the urban development authority of any resource consents applied for within the project area and the authority will be able to veto or impose conditions on consent.

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.

Development plan

The development plan will be required to cover a number of detailed resource management matters, including showing how the plan will be used to deliver on the development project's

strategic objectives and relevant matters under Part 2 of the Resource Management Act 1991. The detailed requirements are described in the proposal box below. Provision for Māori interests in the development plan are described in section 9.

General information about the development plan stage can be found in section 3 (framework and processes).

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);

Proposals: **Planning, land use and consenting – Development plan**

(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.

Consenting and enforcement

When a development plan requires the equivalent of resource consent applications, the urban development authority can be the consenting authority if such a power has been granted by the Government. Alternatively, the Government may choose for these functions to remain with the territorial authority and/or regional council.

Where these powers are granted, it would allow the urban development authority to take on the consenting functions of territorial authorities and regional councils under the RMA. The authority will also have the power to delegate its consenting functions to independent commissioners, and there will be an obligation to do so where the urban development authority would otherwise be applying to itself for consent.

Similar to the RMA, the development plan will be able to provide for development activities that can automatically proceed without the need for a development consent. All other development activities will require a consent application in advance.

Consent applications within the project area for land use and subdivision will for the most part be provided for as non-notified applications, given the level of consultation during the development planning process. But they must contain an assessment of environmental effects.

Any development consent must comply with the development plan and be processed within 15 working days. Cases where notification will be required will generally be restricted to activities that are already subject to such a requirement under a National Environmental Standard or that would otherwise have required a regional council to act as the consenting authority. In these cases, the process will involve a notification decision (10 working days), written submissions (15 working days) and a final decision on the application (15 working days).

Regardless of whether it is the urban development authority or the territorial authority which is the decision-maker, when making decisions on development consents under the development plan, or on resource consents under a regional plan or district plan, the decision-maker must have regard to the same matters noted earlier for planning powers (see the discussion on 'decision-making considerations' above), except that the third priority is given to other relevant matters in sections 104-107 of the RMA (which lists matters the decision-maker must have regard to when considering an application for a resource consent). Conditions may be attached to any consent to ensure compliance with the development plan, to specify infrastructure or to manage adverse effects.

If the development plan does not include any rules for a proposed development activity, then a different consenting process will apply that is more likely to involve notification (under the existing tests in sections 95A & B of the RMA) and longer processing times. In these cases, rights of appeal to the Environment Court will continue to be available, as under the RMA.

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.

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

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.

Activities that require a consent application will be subject to different processes depending on whether or not the development plan includes rules for those activities. The following table outlines the process that must be undertaken in each set of circumstances:

Have planning and consenting powers been granted?	Is the proposed activity expressly included in the development plan (and is not prohibited)?	Who is the consent authority?	What is the process for deciding consent applications?
No	n/a	**Territorial authority or regional council** (status quo applies)	No change - the status quo will continue to apply, except that the strategic objectives become paramount for decision-making.
Yes	Yes	**Urban development authority or independent commissioners** (if the urban development authority is the applicant, or chooses to delegate)	The proposal for activities for which rules have been expressly included in the development plan is set out in more detail below (***Process A***).
Yes	No	**Urban development authority or independent commissioners** (if the urban development authority is the applicant, or chooses to delegate)	The proposal for activities for which rules have not been expressly included in the development plan is set out in more detail below (***Process B***).

Process A: Activities included in the development plan

If—

- the urban development authority has been granted planning and consenting powers; and
- a development consent is required for an activity for which rules have been expressly included in the development plan; and
- the activity is not prohibited by the plan;

then the following consenting process applies.

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;

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

(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.

Process B: Activities not included in the development plan

If—

- the urban development authority has been granted planning and consenting powers; and
- the application for development consent is for an activity for which rules have not been expressly included in the development plan;

then a different consenting process applies, as set out in the following proposals.

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;

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

(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.

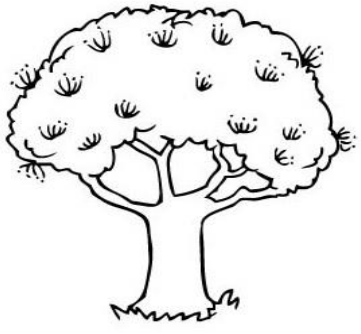
Designations and heritage orders

The Government will have the final decision as to whether existing designations within the development project area continue in force.

Currently, Crown agencies, network utility operators and heritage protection agencies have the ability to designate land for the purpose of providing essential public infrastructure or the protection of heritage sites ('designations' and 'heritage orders'). Those with power to establish designations are called 'requiring authorities'.

Within a development project area, designations may already exist and be contained in the relevant district plan. At the time that a district plan is reviewed, currently a requiring authority has to indicate whether it wishes to roll-over any existing designation. The requiring authority has the final power of decision.

The Government proposes that the same requirement to indicate a wish to roll-over a designation apply in the context of a project area when a development plan is being prepared, but that the requiring authority does not have the ultimate power of decision. An urban development authority can recommend that an existing designation not be rolled-over, in which case the requiring authority can object. Each must present its case to independent commissioners, as per the objections process described in section 3B ("Objections"). On the recommendation of the commissioners, the Minister will make the final determination.



As with all powers granted to an urban development authority, the Government may choose to impose conditions or caveats on designation powers. For example, from the outset of any given project, the Government could grant a power to recommend the removal of designations, but also provide that it cannot apply to particularly important designations that warrant more absolute protection.

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, following the recommendation from the independent commissioners.

Summary of proposed changes – Planning, land-use and consenting

The following table provides a summary of the proposed changes. All are subject to the Government granting the relevant powers for any given project.

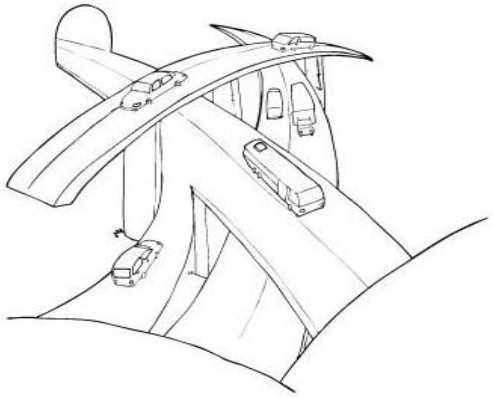
Planning, land use and consenting: Key proposals	Detail	Effect of change/affected party
In decision-making on the development plan or on consent applications, the decision-maker must give paramount consideration to the strategic objectives of the development project	• The decision maker must have regard 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: Infrastructure

Development projects will need an independent method for providing infrastructure where the necessary infrastructure has not been included in local government plans or needs to be brought forward to accommodate urban growth.

The Productivity Commission and others have identified that infrastructure generally falls into two categories: trunk infrastructure and local infrastructure. Trunk infrastructure refers to significant shared assets that serve large urban areas and a number of households, such as water reservoirs, water and waste treatment facilities, main distribution lines or urban rail services. Local infrastructure relates to the more specific systems and services for a subdivision or house, such as power or phone lines or individual household connections to street gas or water mains.[8] Utilities, roads, public amenities and central government services are all essential for successful urban development.



Although private developers usually provide and fund the local infrastructure needed in their developments, it is likely that a large scale development project will require additional trunk infrastructure that would normally be provided by local government or a utility provider. A private developer has no power by themselves to stop or re-align roads, nor to compulsorily acquire the land corridors required, and only very limited ability to initiate the construction of trunk infrastructure.

In contrast, a territorial authority has most of the existing powers to construct or modify the trunk infrastructure necessary for urban development, yet they have no power in respect of state highways. Nor can there be any assurance that the territorial authority will exercise its powers to support the particular development project. Even where it is willing, the exercise of these powers is through lengthy and time consuming processes with multiple appeal rights.

Consequently, no one entity currently has the full range of powers needed for large and complex developments, and the powers that do exist are slow and complex. Powers relating to infrastructure planning, provision, funding and financing are spread across at least eight different statutes.[9] The current situation reduces the ability to respond quickly to opportunities, which impacts on the viability and usefulness of a development project.

General matters

The Government proposes that the legislation provide for the following powers that can be assigned to an urban development authority to ensure it can lead the provision of

[8] Productivity Commission, *Using land for housing*, 2015, Overview, page 14.

[9] Resource Management Act 1991; Local Government Act 1974; Local Government Act 2002; Local Government (Rating) Act 2002; Local Government (Auckland Council) Act 2009; Government Roading Powers Act 1989; Public Works Act 1981; and Land Transport Management Act 2003.

infrastructure within the development project area, coordinate with territorial authorities and network utility operators as necessary, and to ensure integration with wider networks and infrastructure planning.

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 transfer to be discretionary depending on which entity owns the infrastructure.

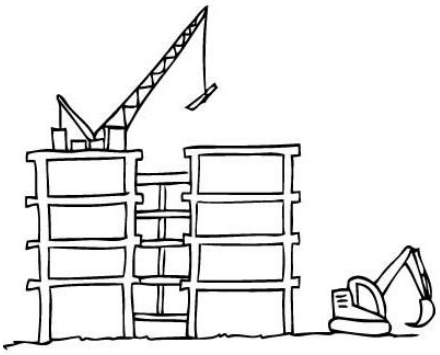
Independent method for providing infrastructure

Development projects 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. The provision of infrastructure may need to include developing supporting trunk infrastructure outside of the main project area.

One option would be to include the necessary infrastructure corridors that lead to the main development within the boundaries of the project area. Otherwise, the proposed legislation

needs powers to either require the territorial authority to undertake this work or to enable the urban development authority to operate outside its boundaries for these limited purposes.

Although the Government is proposing that urban development authorities have access to powers of compulsory acquisition (see section 5), those powers would only be available within the boundaries of a development project area. Unless those boundaries are drawn to include any required infrastructure corridors, an urban development authority would not be able to access those powers to support the provision of any infrastructure required outside the project area. For that reason, the Government proposes that urban development authorities can be given the status of a 'requiring authority' under the Resource Management Act 1991,[10] 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.[11] (These powers would not extend to wider public works, such as housing or urban renewal.)



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 access the Government's National Land Transport Fund and associated co-investment funding programme.

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).

[10] See section 166, Resource Management Act 1991.
[11] See section 186, Resource Management Act 1991.

Proposals: Infrastructure – Independent method for providing infrastructure

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.

Link with local government planning

Enabling an urban development authority to require that local government infrastructure and transport plans are consistent with the strategic objectives of any development projects within their area would provide greater certainty and consistency for both developers and territorial authorities. It would also mitigate the risk that these plans compromise the proposed development or vice versa.

Powers are also required to enable an urban development authority to have local government by-laws suspended, amended or created to remove any specific restrictions or constraints to developing infrastructure. These powers would be limited to sites or activities that are related to specific development project areas and would not include any by-laws relating to road safety.

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.

Performance requirements and standards

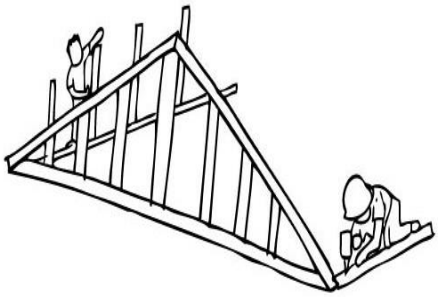
Connecting into the existing city-wide circulation (road, rail, bus routes and land transport services) and reticulation (water, wastewater, storm water and land drainage) networks and systems will be an important part of providing new physical infrastructure for development projects.

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,[12] or the objectives of the relevant territorial authority's infrastructure design codes of practice.

Collaboration will be required with the relevant territorial authority 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 Government therefore proposes that the proposed legislation 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 (NZTA)) or network utility operators before exercising any powers that could affect an existing service provider's infrastructure networks.



Ownership of any new infrastructure would be vested in the relevant territorial authority or other agencies when the project is complete, provided the receiving organization neither inherits any debt nor has to purchase the assets that are vested in it.

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.

[12] E.g. NZS 4404:2010 Land development and subdivision infrastructure.

Proposals: Infrastructure – Performance requirements and standards

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.

Dealing with infrastructure when winding-up a development project

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.

Currently, any local infrastructure (of the sort usually provided in a new subdivision) automatically vests 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 located at Appendix 5.

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.

Proposals: Infrastructure – Winding-up the development project

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.

Summary of proposed changes – Infrastructure

The following table provides a summary of the proposed changes. All are subject to the Government giving the relevant powers for any given project.

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: Funding and financing

An urban development authority will require access to a broad range of powers to encourage investment in, and independently fund, new infrastructure.

The proposed legislation would enable an urban development authority to levy development contributions and a targeted infrastructure charge on properties within a development project area. Any charges will be collected by the territorial authority, on behalf of the urban development authority or a private vehicle.

Central government entities have limited statutory powers to finance and fund infrastructure for urban development. At present, these powers primarily relate to roads, land transport, schools, prisons, hospitals and reserves.

In contrast, local government has a wide range of powers to finance and fund infrastructure including powers to tax land and property. Many territorial authorities in New Zealand charge targeted rates to homeowners and businesses to pay for specific services provided to their communities. However, their limited capacity to carry additional debt can create significant constraints on funding infrastructure upgrades and expansion. Additionally, there can be no certainty that a territorial authority would be willing to support a development project with additional funding to provide infrastructure.

Apart from taxation powers, the ability to acquire, repackage and sell or lease land is another method used overseas to pay for the infrastructure required to support the development.[13] The ability to use land as security to borrow or the ability to pre-sell sections or building space can release capital to pay for infrastructure without necessarily having to take on large amounts of debt.

General matters

Consequently, an urban development authority needs access to powers to independently fund new, and to upgrade existing, infrastructure systems and services, either directly or under contract with others. In particular, the Government proposes that the costs of developing new infrastructure be passed on to the eventual purchasers of individual properties and to any existing properties that benefit from the upgraded services within the development project area, either in the sale price or through a separate, targeted, property-based infrastructure charge.

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

[13] For example, Hudson Yards in New York, and Barangaroo and Walsh Bay in Sydney. Britomart in Auckland was also funded this way.

Proposals: Funding and financing – General matters

(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.

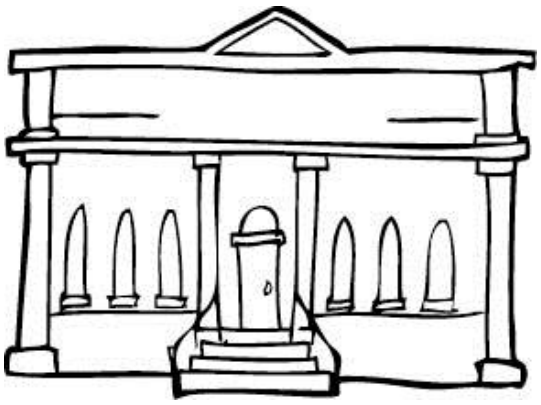
135. The proposed legislation includes a power to determine and levy project specific development contributions on developers building within the project area and collect those contributions for the development project.

Collecting targeted infrastructure charges

While an urban development authority would have powers to levy a targeted infrastructure charge on property owners, it would not operate as a collection agent nor have any powers to enforce payment. The Government proposes that any charges are collected by the territorial authority on behalf of the development project, because territorial authorities have the structures in place for obtaining and using public money, as well as the collection systems, mechanisms and authorisations that enable them to do so.

The funds would be forwarded to either the urban development authority (if it is servicing the debt) or to a privately-owned vehicle established to own the assets and raise the finance needed to develop infrastructure and social amenities within the project area.

The power to levy targeted infrastructure charges would be restricted in its application to land and facilities that are contained within the development project boundaries and not extend to a more general levy across an area or district. Any infrastructure charge would be additional to the general rates for a property and apply to those properties for as long may be required to fund the costs of developing the infrastructure.



Given the potential impact of an infrastructure charge on households, urban development authorities must consult with the affected property owners during the development plan stage. Consultation would seek submissions on the rationale for the charge, its coverage, the likely amount, its long-term implications and any potential exemptions.

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.

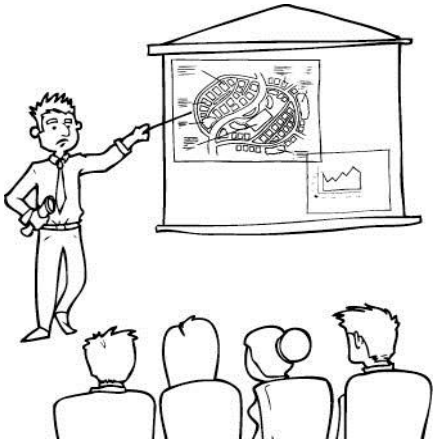
138. The power for an urban development authority to levy targeted infrastructure charges is restricted to land and facilities that are contained within the development project boundaries.

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.

Cross-border funding issues

There may be a need for funding to flow into the development project from residents outside the project area for any benefits they receive from the development project. There may also be a need for funding to flow out to the territorial authority from residents inside the project area for benefits they receive from the wider infrastructure system.

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.



A statutory mechanism enabling the development project to access appropriate income from outside residents is therefore required. The territorial authority could agree and generate the necessary revenue from among its existing funding powers (whether from general rates or a targeted rate). Alternatively, if no agreement is possible, the Government proposes that the matter can be referred to an independent decision-maker to resolve the issue.

In most situations, there will also be a case for levying at least part of the territorial authority's standard development contribution on developers operating inside the development project area, to help pay for infrastructure, services and amenities that property owners will receive from outside the project area, such as improvements to head works (e.g. an upgrade to the local waste water treatment plant). Also for trunk infrastructure, development contributions may need to be shared between the territorial authority and the development project depending on the extent to which each is funding the new infrastructure and where the

benefits accrue. However, the Government proposes that only the urban development authority, rather than the territorial authority, has the power to levy development contributions within the development project area.

Some statutory mechanism enabling the territorial authority to receive an appropriate share of development contributions is therefore required. Again, the urban development authority could simply agree and charge a development contribution that is calculated to cover both its costs and an appropriate share for the territorial authority. Alternatively, if no agreement is possible, the Government proposes that the matter can be referred to the same independent decision-maker envisaged above.

The independent decision-maker's fundamental goal will be a fair allocation of costs based on where the benefits accrue. The starting assumption will be that the urban development authority is liable to pay the equivalent development contribution that would otherwise have applied to land within the development project area. That can then be adjusted to the extent that the urban development authority has delivered infrastructure that would otherwise have been provided by the territorial authority.

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.

Proposals: Funding and financing – Cross border funding issues

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.

Summary of proposed changes – Funding and financing

The following table provides a summary of the proposed changes. All are subject to the Government giving the relevant powers for any given project.

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: Māori interests in urban development and land use

Māori regard land as a taonga tuku iho. The Treaty of Waitangi provides for Māori rangatiratanga, or chieftainship, over resources including land, and guarantees Māori the full exclusive and undisturbed possession of their land so long as it is their wish to retain it.

Land that has remained in Māori ownership has defined sets of owners and a unique Māori land tenure system under Te Ture Whenua Māori Act 1993, based on the retention principle. In addition, many settlements of historical claims relating to the Treaty have seen land returned to collective groups of Māori or have given those groups rights of first refusal over Crown land that becomes available.

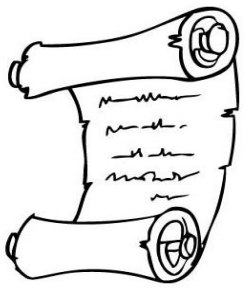
In this section, we set out the proposals to ensure Māori interests are identified, the principles of Te Ture Whenua Māori Act 1993 and the Treaty of Waitangi are upheld, and Treaty settlements are honoured in any urban development project.

The Government is not proposing to change the law as it applies to Māori interests in land; and the Crown will continue to be bound by all of its Treaty settlement obligations. Nevertheless, the proposed legislation still has significant implications for Māori interests.

Note that, in order to gather all proposals related to Māori in one place, this section repeats some of the discussion from other sections.

Honouring Treaty Settlements and protecting land for future settlements

The proposed legislation will not override any Treaty settlement legislation (past or future). The Crown and its urban development authorities would also remain bound by any relevant agreements between Crown agencies and iwi or hapū entities or the mandated representatives of claimant groups.



Any land that may potentially be needed to settle future Treaty settlements must be identified as part of the initial assessment. This includes both land that has already been ear-marked for that purpose and land that may yet be needed. Before any decisions could be 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.

Some legislation provides Māori with certain processes in which Māori views and interests must be sought and in some cases given effect. With respect to legislation arising from Treaty settlements and associated agreements, the provisions would continue to bind the Crown under the proposed legislation. Consequently, if an urban development authority is granted the resource consenting functions of a regional council or territorial authority, it would be bound by any obligations those consenting authorities have under Treaty settlements regarding land in the development project area.

For other legislation, any existing processes for planning and consenting will be replaced with the consultation processes proposed for the new legislation. Note, however, that there is no proposal to change the processes required under Te Ture Whenua Māori Act 1993.

In this regard, the Government notes that there is a risk that the different planning and consenting processes that are proposed for decision-making in development project areas may be incompatible with co-governance arrangements established through Treaty settlements, which are built around the existing planning framework. Several co-governance arrangements involve the establishment of joint committees or iwi representation on council committees. Some of these entities, like the Hawkes Bay Regional Planning Committee, have a direct role in the preparation of regional policy statements and plans. The functions of others, such as the Waikato River Authority, include the preparation of documents which must be given specific legal weighting in the preparation of plans and policy statements.

Given that the proposals include the potential for regional plans and policy statements to be replaced in development project areas, if and when scenarios like these arise there will be a need to protect the Treaty settlement arrangements. While the Government is committed to ensuring that Treaty settlements prevail, implementing this commitment will raise particular challenges in these circumstances. Consequently, the Government is especially interested in feedback on how best to protect settlements in these cases, while still enabling the alternative planning and consenting processes described in section 6.

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.

Proposals: Māori interests – Honouring Treaty settlements

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).

Process for establishing a development project

Where land is located in a proposed development project area, the overall approach to providing more enabling development powers offers opportunities for owners of land held under Te Ture Whenua Māori Act 1993 and for iwi or hapū groups and governance entities that own land, to choose to partner in the development of their land, or to develop it themselves taking advantage of the more enabling development environment (if their governing legislation and constitutional instruments permit them to do so).

Māori interests in land

In general, land owned by individuals will be subject to the same opportunities and powers as all other land in a development project area, whether the land is owned by a person who identifies as Māori or as non-Māori.

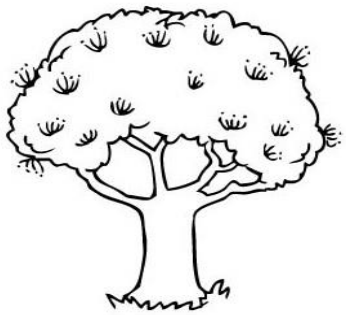
However, the following types of land in which Māori have an interest would be approached differently, as further described in this section:

- land that was transferred to a claimant group as part of a Treaty settlement (see page 92);
- land that the Crown has sold to a post-settlement governance entity under a right of first refusal agreed in a Treaty settlement (see page 92);
- land held under Te Ture Whenua Māori Act 1993, or its successor (see pages 91 and 92);
- Crown land that is subject to a right of first refusal in favour of a post-settlement governance entity (see page 96);
- land held by the Crown for future Treaty settlements (see page 88);
- land that has a statutory acknowledgement under a Treaty settlement (see page 88);
- land of special significance to Māori for cultural or historic reasons (see page 94); and
- land subject to an agreement negotiated between an entity representing an iwi, including an iwi collective or hapū, and a Crown agency (see page 88).

Where development projects can be located

To be eligible for consideration, the project needs to be an urban development. This could include greenfield development projects at or beyond the edge of an existing built-up area, but will not include development in rural areas. Consequently, 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 be affected by the proposed legislation.

Very little land held under Te Ture Whenua Māori Act 1993 is located either within or near the urban areas of New Zealand cities and towns. In general, therefore, the chances that this land will feature within a proposed urban development project are low.



The main exception is Tauranga, where there is a significant amount of such land in areas likely for urban growth. Rotorua also has a significant amount of such land, but the city is not growing as fast.

Initiating development projects

The process for identifying an urban development project starts with either central or local government. In many areas, local government has existing relationships with many iwi, hapū and governance entities, providing a starting point for discussion of potential opportunities in respect of most types of land described above.

The proposals make no changes to Te Ture Whenua Māori Act 1993 (nor to its successor). Consequently, for land held under this Act, the starting point will be with the trusts and Māori incorporations established for that land or, if the land does not have a trust or incorporation, the starting point will be with the owners through a Māori Land Court process.

As with other private developers, iwi organisations and Māori land trusts and incorporations with land development businesses of their own or that can partner with a private developer will be able to approach central or local government to consider supporting significant developments that these groups wish to lead on land in which they have an interest.

Before public consultation on whether to establish a development project

The first step towards establishing a development project is an initial assessment of its potential. One of the requirements of this step will be for government to identify all of the land in the proposed project area in which Māori have **one of the interests described above**, together with the nature of that interest, and the potential opportunities to partner with the relevant landowner to develop that land as part of delivering the project. To achieve this, the government must engage with owners of land held under Te Ture Whenua Māori Act, including through their trusts and incorporations, and with post-settlement governance entities, representative entities for claimant groups and governance entities for relevant iwi and hapū.

Option to exclude certain land from a development project

The Government proposes that **land held under Te Ture Whenua Māori Act 1993** and **land that has been returned under a Treaty settlement** cannot be included within a development project without the consent of the relevant landowner. This includes **land that the Crown has sold to a post-settlement governance entity under a right of first refusal** after the relevant Treaty settlement and before the development project is established.

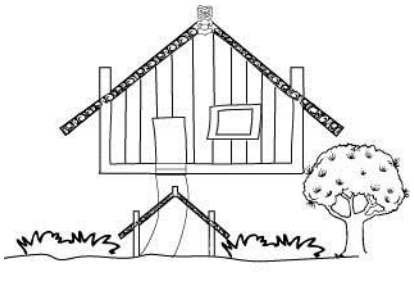
- Provided their governing legislation and constitutional instruments permit them to do so, relevant landowners can opt for their land to be part of the development project, in which case that land will be subject to the same opportunities and powers as all other land within the project area.
- If the owners opt out, then that land will be excluded from the development project and so will not be subject to the proposed development powers. Instead, it will continue to be subject to the existing development rules, land use regulations and legislative framework. If this land is in the middle of a development project area, then it will fall within the boundaries but not form part of the project.

Consequently, when engaging with owners of land held under Te Ture Whenua Māori Act and with post-settlement governance entities as part of the initial assessment described above, government must ask relevant land owners whether they would like their land to be included in the proposed development project.

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. One of the requirements of this step is for officials to seek feedback on the proposal from relevant landowners in the proposed project area that have **one of the interests in land described above**.

If not determined at the previous step, this consultation will be the last chance for those landowners who have the option to choose to have their land included within the development project. As no changes are proposed to Te Ture Whenua Māori Act 1993, for any land held under that Act, the Act and the terms of any applicable Māori Land Court orders, such as trust orders, must be complied with; and for land that has been acquired pursuant to a Treaty settlement, the relevant settlement legislation and the constitution of the post-settlement governance entity must be complied with.



Establishing a development project

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 guide to decision-making for the project.

The strategic objectives will take precedence over the purpose and principles of the Resource Management Act 1991, which include providing for certain Māori interests to be considered in resource matters.[14] To ensure the relationship of Māori with their land and other taonga is maintained under the proposed legislation, it will be compulsory for this principle to be a strategic objective of all development projects.

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

Urban development authorities must remain in public control and have a governance board that is accountable to Ministers or local government. Where appropriate, the Government may require the board to include Māori representation (e.g. where a significant part of the project area is owned by iwi or hapū groups or governance entities).

As part of the terms on which a relevant development project is established, the Government may also direct that the project make particular provision for Māori land owners, hapū/iwi authorities, claimant groups and/or post-settlement governance entities.

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.

[14] See section 6(e) of the Resource Management Act 1991.

Proposals: Māori interests – Process of establishing a development project

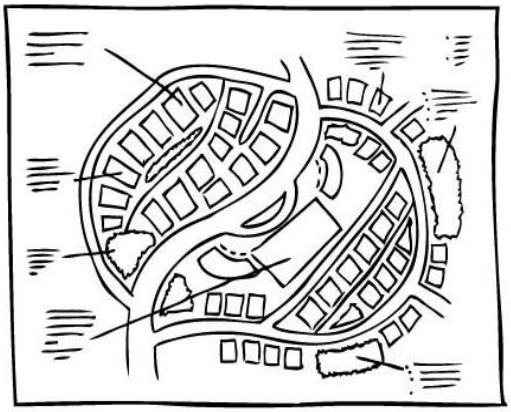
156. If relevant landowners opt out, then that land is excluded from the geographic boundaries of the development project area, in which case the existing development rules, land use regulations and legislative framework continue to apply to that land.

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.

Preparation of a development plan

The fourth step is for the urban development authority to prepare a detailed development plan for the project area. One of the requirements of this step is for the development plan to show how commitments arising out of settlements of Treaty claims are being complied with. In addition, development plans must give effect to any Treaty settlements and must adopt the same level of protection for sites of significance for mana whenua usually provided for through district and regional plans.



In addition, during preparation of the development plan, the urban development authority must confirm which landowners have elected to include their land in the 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 catered for in the development plan.

To achieve this, government will need to engage with all relevant landowners.

Consultation on the draft development plan

The fifth step is for the urban development authority to publish a draft development plan for public consultation. Any interested member of the public can make written submissions in response to the draft, including relevant Māori land trusts and incorporations, post-settlement governance entities and iwi and hapū.

As affected persons, these groups will also have the right to object to any aspect of the development plan that the urban development authority recommends. Those objections will be heard by independent commissioners, who can recommend that the responsible Minister change the development plan before it is approved. (See section 3B, "Objections".)

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.

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.

Land subject to a right of first refusal

As is currently the case, if the Crown is interested in selling **Crown land that is subject to a right of first refusal** ("RFR land") and that land is located within a development project, it would still have to offer the land to the relevant post-settlement governance entity first, with no development conditions attached. Alternatively, the relevant governance entity may wish to consider investing in the proposed urban development project using that RFR land.

At the establishment of the project, the Crown will not have an option to exclude RFR land from the development project. To the extent that this Crown land falls within the proposed boundaries, it will form part of the development project and may be transferred to the urban development authority to manage. If it is transferred, the authority will also be bound by the right of first refusal. As the Crown's agent, the authority can choose whether to retain the RFR land for development or offer it to the relevant post-settlement governance entity for sale.

If the Crown or urban development authority does decide to sell any RFR land within the development project area, then it must first offer it for sale to the relevant post-settlement governance entity. If that entity purchases the land, it will remain part of the development project. Unlike RFR land that was purchased before the project was established, post-settlement governance entities will not have an option to exclude from the development project any RFR land that is purchased after the project is established.

Consequently, the sale and purchase of RFR land within a development project would need to be made in the knowledge that the land is subject to the same opportunities and powers as all other land in that development project.

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.

Land assembly powers

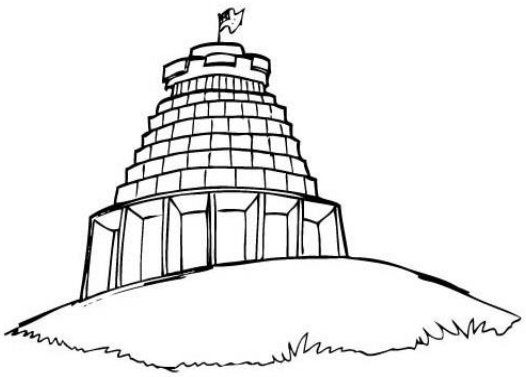
Section 5 sets out the proposed powers enabling land to be assembled for an urban development project, which include acquiring Crown or council-owned land and purchasing land from private owners.

Compulsory acquisition under the Public Works Act 1981

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 those existing powers, whether or not the land is included or excluded from a development project. Currently, central or local government already has the power to acquire land by compulsion for a range of public works, including for housing purposes and for urban renewal.

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

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 public works. In effect, this would add urban development authorities to the group of public agencies who can manage the process of compulsory acquisition. But it is important to note that final decision-making power would remain with the Minister for Land Information and that 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 powers of compulsory acquisition to be exercised may increase the number of occasions they are 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.

Requiring authority powers

The Government proposes that an urban development authority can become a requiring authority under the Resource Management Act 1991.[15] Where needed, this would enable the urban development authority to designate land outside of the development project for the purposes of essential public infrastructure needed to support the proposed development. This power would cover any network infrastructure that may be required, such as roads, electricity transmission lines and water pipes. It would not include wider public works, such as housing or urban renewal.

Under the Resource Management Act 1991, a requiring authority can apply to the Minister for Land Information for compulsory acquisition to support work related to any necessary utility networks.[16] Consequently, when government chooses to enable an urban development

[15] See section 166, Resource Management Act 1991.
[16] See section 186, Resource Management Act 1991.

authority to be a requiring authority, the authority will be able to ask for compulsory acquisition over land that falls outside the project, including Māori land whose owners have otherwise chosen to have it excluded from the project. However, the purposes for which the authority could ask for compulsory acquisition would be restricted to network infrastructure, meaning the urban development authority could never take land outside the project for housing or urban renewal purposes. The decision-maker would remain the Minister for Land Information.

Māori reserved land

Finally, Māori reservations held under the Māori Reserved Land Act 1955 will be exempt from the proposed powers over reserves described in section 5.

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: Other matters

This section outlines issues associated with the topics listed below. These topics do not currently form part of the urban development authorities proposal. However, the Government would like to take the opportunity to seek your views on whether (and how) these matters could be considered for inclusion in the proposed legislation.

A. Criteria or thresholds for selecting urban development projects.

B. The role of territorial authorities: should urban development projects be able to proceed without territorial authority agreement?

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

D. Market provision of infrastructure.

E. The role of the Overseas Investment Act 2005.

Overall questions for this section:

Which of the topics in this section do you think the Government should address in the proposed legislation (if any)?

What do you see as the key risks and opportunities associated with addressing any of these topics in the proposed legislation?

A. Criteria or thresholds for selecting urban development projects

The Government is interested in your views on what, if any, criteria should govern the application of the proposed legislation. These criteria 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.

Given the nature of the development powers being proposed, the Government considers that including criteria of some kind would be desirable to help protect against the inappropriate application of the proposed legislation.

At this stage, prescriptive thresholds are not preferred. The Government considers that a minimum threshold appropriate for one urban context (e.g. Auckland) is likely to be too high for other urban contexts (e.g. Tauranga). What is a large scale development in a small city will not be a large scale development in a big city.

Consequently, the Government is not proposing that the legislation define specific thresholds for its application. This is consistent with the approach taken in the UK and most Australian states (see Appendix 3 comparison tables). However, the Government invites alternative views. Should you consider that prescriptive thresholds are desirable, the Government is particularly interested in what thresholds you would recommend.

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, as outlined in section 3. For example, the Governor-General's approval is required to establish a development project and grant it powers, and the public's views would be sought on what strategic objectives the development project would be required to achieve.

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 is particularly interested in your views on what these criteria should be and what considerations a decision-maker should take into account before recommending that a development project be established.

Do you think 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?

In its report Using Land for Housing, the Productivity Commission noted that many urban councils in New Zealand have a clear idea about how they want to develop in the future, and how they intend to meet a growing population demand for housing. Many larger cities have chosen to pursue a compact urban form. Yet some of New Zealand's cities have difficulty in giving effect to this strategy through land use rules. This is because local democratic processes can be dominated by interests that resist efforts at intensification and accommodating growth. There is also a need to ensure the urban development legislation addresses the coordination and governance failures in order to be successful.

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. It is also important to acknowledge the need for community representation and involvement if these development projects are to be successful, an area where local councillors have an ability to play an important role.

At this stage, the Government's proposal is that territorial authority agreement is required before an urban development project can be established, essentially giving territorial authorities a veto right.

Do you think the proposed legislation should prescribe the circumstances in which a territorial authority can exercise its veto power?

The Government is also open to alternative views. One option could be to allow central government to proceed without territorial authorities' agreement in exceptional circumstances. For example, if a case can be made that the project is in the national interest.

Do you consider that 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 acknowledges that there are likely to be significant transitional matters that need to be addressed, both in relation to the establishment of urban development projects and to the disestablishment of those projects once their objectives have been met.

The proposals described in sections 3-8 address some of these issues, which are summarised below. However, the Government anticipates that there will be other issues that still need to be addressed and encourages you to identify them in your feedback.

What transitional issues have you identified (that have not otherwise been addressed)?

How do you recommend the Government addresses the issues you have identified?

Summary of key proposals for transitional matters

- 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.)

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. The new streets, water pipes, footpaths and even some local parks are all funded and supplied in this way.

In contrast, the larger trunk infrastructure that services these developments is normally provided by local government or a council-controlled utility provider. These are the water treatment facilities, large diameter pipes and main service roads that connect a development's local infrastructure with the rest of the city's infrastructure network.

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. (See section 8: funding & financing.) Especially in the context of large greenfield developments, the number of existing land owners and interested parties would be far fewer than in existing built-up suburbs and therefore the complexity of competing interests lower, perhaps providing greater potential for this approach.

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.

Do you think the Government's current proposals will be able to achieve these outcomes in the context of development projects? If not, why not?

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.

What barriers to the private provision of infrastructure currently exist?

To what extent will the Government's proposals for the new legislation contribute to overcoming those barriers for development projects?

Some possibilities are canvassed below to prompt your feedback:

- Uncertainty about the existing planning and consenting processes under the RMA could lead to unwillingness in the private sector to fund investment in trunk infrastructure. Is this a problem and, if so, do the current proposals for urban development legislation reduce this uncertainty?
- Another factor may be uncertainty about whether a private entity will be able to charge consumers for service provision, thereby earning a return on equity on an infrastructure investment. Access to the proposed infrastructure charge is one solution, but it is tied to the cost of constructing the trunk infrastructure, rather than being a fee for the services that the infrastructure will provide. Would the power to levy such fees or some other sort of charges be desirable?
- There may be uncertainty about how the insolvency of a third-party infrastructure provider would proceed, should it occur. For instance:
  - Would a council end up bailing out the private infrastructure provider?
  - Would land in the development be used as collateral?
  - In the event of failure, how would a wind-up process function?
  - How could residents' liability be managed?

  If these are barriers, the Government is interested in what solutions you think would be useful.
- There may be uncertainty about how later-arriving developments or residents would compensate the original infrastructure providers for using their resources.
- Standards for the quality of infrastructure and then subsequent service and maintenance provision are important factors. The current proposals anticipate requirements for prevailing standards to be met:
  - Given that councils currently set these standards, are the costs of meeting these standards fair?
  - What role could the proposed urban development legislation play in developing or setting uniform standards?

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?

Appendix 1: Glossary

The following terms are used in this discussion document:

Accountability: the way a public body is held answerable to the public for the decisions it takes, including requirements to inform and consult on its plans, report on its performance (financial and otherwise) and potentially face consequences for poor performance.

Affected persons: are directly affected residents, business owners and landowners in the development project area, relevant iwi and hapū, immediately adjacent landowners, requiring authorities, Heritage New Zealand Pouhere Taonga and, where the power to override regional plans or policy statements is granted, communities associated with air or water catchments that the development project area is part of.

Amenity: the qualities and attributes people value about a place that contribute to quality of life in that place, such as schools, services, and community and recreational facilities.

Brownfield: any land in an existing urban area with existing built uses.

Brownfield development: redevelopment of land which changes it from one built use to another (often from industrial or commercial to housing/mixed uses).

Designation: (see also *requiring authority*) a provision made in a district plan providing notice to the community that a requiring authority intends to use land in the future for a particular work or project. Once a site is designated for a particular purpose, the requiring authority is able to: proceed with the specific work on the site as if it was permitted by the district plan; control activities that occur on the site; prevent the landowner doing anything that would compromise the future public work; apply to the Minister for Land Information to compulsorily purchase or lease all or part of the land under the Public Works Act 1981; and enter private land to undertake investigations.

Development consent: is planning approval to undertake a regulated activity in a development project area and is the equivalent of a resource consent under the RMA.

Development contributions: can be charged under the Local Government Act 2002 to fund the additional infrastructure that a local authority needs to provide as a result of development.

Development powers: the powers proposed under the new legislation, which are only available to selected development projects.

Development plan: the final expected outcome of a large site development. This plan describes the physical configuration and phasing of buildings, infrastructure and/or public spaces and may be used to direct development on smaller sites within the plan area.

Development project: a particular urban development that has been granted development powers under the proposed legislation, defined by its discrete geographic area and the strategic objectives for development.

Greenfield: previously undeveloped land (generally on the urban fringe), which has either been used for agriculture or was in its natural state.

Greenfield development: built development (industrial, commercial, residential or mixed use) on previously undeveloped land.

Identified Reserves: recreation reserves, local purpose reserves, scenic reserves, historic reserves, and government purpose reserves.

Intensification: the process of increasing the density of development in an urban area. Residential intensification involves accommodating more households within an existing urban area. It could involve apartments above commercial activities or town-houses and terraced housing around town centres, along with a range of different housing types.

Land assembly: buying or otherwise acquiring the necessary land or development rights to enable a particular form of development to be undertaken, where that development requires a certain size, location or configuration of land sites to be practical or viable to proceed.

Lead development entity: has responsibility for planning, developing, and managing a development project, and with accountability for delivery of the strategic objectives.

Mana whenua: customary authority exercised by an iwi or hapū in an identified area.

Minister: refers to the Minister responsible for the proposed legislation, who would be appointed by the Prime Minister.

Mixed use: compatible and complementary activities within an area (often of a mixed residential, business, recreational, retail or hospitality nature).

Public good: refers to products, amenities or services provided for the wider public benefit.

PWA: the Public Works Act 1981.

Requiring authority: a Minister of the Crown, a local authority, or a network utility operator approved as a requiring authority under the RMA, with the ability to have areas of land designated for use as large public works or network utilities.

RMA: the Resource Management Act 1991.

Urban development authority: a publicly controlled entity that is given powers under the proposed urban development legislation.

Urban form: the physical form of a city, including the layout of buildings, transport networks (e.g. roads and rail), open spaces, and other physical infrastructure.

Value uplift: occurs when a landowner benefits from an increase in the market value of a piece of land, usually associated with *either* a change in its development potential or the planning regime, enabling it to be put to a higher-value use (e.g. from stand-alone single home to terraced or apartment construction, or from farming to residential-use zoning), *and/or* investments and improvements made by public bodies or other property owners nearby.

Appendix 2: Scenario

The following scenario is an attempt to give a sense of how the proposed legislation might be applied in a large scale redevelopment project.

The scenario works through an example of how a development project might proceed from concept through to the delivery of the final development.

It is worth noting that this is just one example of how the proposed legislation might be applied. Each situation and possible project will be unique and subject to a different set of variables which will need to be considered on a case by case basis.

Step 1: Making the case for establishing a development project

About the area

The suburb to be redeveloped in this scenario includes a mix of developed residential land and undeveloped land all within a single sprawling suburb.

For the most part, the housing stock consists of single, standalone mid-twentieth century dwellings on medium-sized sites. The households in the suburb represent a broad mix from long-term residents who own their own homes to social housing tenants who have lived in the area for a shorter time.

Beyond housing, the suburb also contains a number of social amenities including a park, kindergarten, primary school, library and shopping district. The infrastructure network, while ageing, is functional but nearing capacity at the present time.

The suburb has a well-used bus service but is not serviced directly by a rail station. However there are a number of rail stations within a short distance.

Previous consultation

The opportunity for redevelopment of the suburb has long been talked about but the scale of development has been a barrier to date. A number of initiatives (led by both local government and residents) have identified the need for additional investment in the area. However, the exact nature of that redevelopment has never been agreed.

Land ownership

The residential land within the suburb is a mixture of Crown-owned land for social housing and private residences. In all, the suburb contains approximately 5,000 dwellings spread across 400 hectares.

In addition to the Crown-owned land used for social housing, there is a range of other Crown-owned land which is used primarily for reserves purposes and schooling.

The suburb also contains a number of land parcels that were returned to the local iwi as part of a Treaty of Waitangi settlement, which include some reserves. The suburb also contains Crown land over which the local iwi has a right-of-first-refusal under that Treaty settlement.

The urban development authority tasked with overseeing the development project would need to work with these iwi to ensure their interests continue to be upheld (either by excluding the relevant land or by giving them the opportunity to participate in the development).

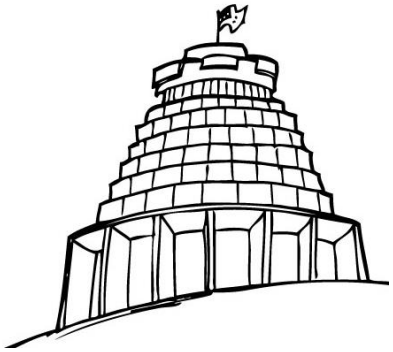
What makes this a suitable project?

In general, the area is seen as a viable development project under the urban development legislation because the fragmented nature of the land ownership makes development under the status quo very challenging.

In addition, the scale of development to be undertaken and the benefits which redevelopment could deliver further support its consideration as a development project.

Type of development anticipated

The development would focus primarily on increasing the number of residential dwellings within the suburb while providing improvements to both social and physical infrastructure and utility networks to cater for the increased growth that is anticipated.



The development is expected to take place over an extended time period (up to 20 years), with a precinct-based approach whereby smaller areas within the larger suburb are developed as stages within the larger project.

Case for establishing a development project

Officials from local and central government would begin work on an initial proposal. If, having considered this initial assessment, the Minister and Mayor are confident that there is a case for using the powers, then the proposal is formalised in advance of extensive public consultation.

Step 2: Formalising the proposal and talking to the community about it

Public consultation

As part of the public engagement, the key aspects of the proposed development project would be consulted on.

This would include giving all interested parties the opportunity to have their say on what land should or should not be included as part of the development project, the proposed strategic objectives for the project, what entity would lead the project and what development powers might be made available.

Strategic objectives

For this project, government might propose that the key things it wishes to achieve are:

- a doubling in the number of residential dwellings;
- the provision of 10 percent of housing at a specified 'affordable' price point;
- the provision of 20 percent of the housing as social housing;
- the establishment of improved social infrastructure to cope with the increased number of people in the suburb (e.g. provide for a bigger school);

- the upgrading of physical infrastructure, utilities and public transport to meet demand; and
- the promotion of active transport modes (i.e. walking and cycling) to promote health and environmental outcomes and reduce pressure on the road network.

About the entity

While there may well be urban development authorities who could be given responsibility for the project, Government may view the costs associated with establishing a new entity just for this project as justified given that the development project is likely to run for 20+ years.

In addition, the broad scale of the development being undertaken would lend itself to a collaborative approach between central and local government.

As such, an urban development authority might logically take a form that allows both Crown and Council to have some level of control. This could be either a company model (similar to the Tamaki Regeneration Company), or a statutory entity that is accountable to both Crown and Council (similar to Regenerate Christchurch).

The urban development authority would likely take responsibility for the overall development project with lead development entities being tasked with delivering each of the stages of development.

Development powers

Given the large scale of the development project and the amount of work to be undertaken, the Government might propose to make a broad range of development powers available. For a project of this scale, the powers might include:

- Powers relating to reserves in order to move and realign reserves;
- Roading powers to stop, move and /or realign roads in order to maximise the space available;
- Powers to amalgamate land parcels and re-subdivide them as necessary;
- Powers to assemble all public land within the development project;
- Powers to acquire land (both public and private) by negotiation or compulsory acquisition;
- Powers to apply more intensive zoning rules in respect of the land in order to achieve the necessary uplift in density;
- Planning powers in order to allow the urban development authority to produce a development plan;

- Power to become an NZTA approved organisation under the Land Transport Management Act 2003;
- Power to stop, move, build or modify water systems; and
- Power to levy infrastructure charges on properties within the area.

Step 3: Formally establishing the development project

Response to feedback

After public consultation the proposal would be modified as necessary to address the feedback received. The territorial authority and the Minister responsible would then need to consider the results of the public consultation and the modified proposal before making a final decision.

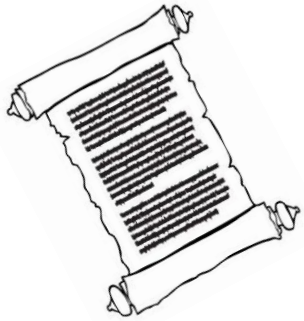
Establishment via Order-in-Council

If the decision is to proceed with establishing the development project, this would be done through an Order-in-Council issued by the Governor-General on advice from the Minister.

The Order-in-Council would confirm the borders for the development project, the strategic objectives, the development powers to be made available, the entity to be given responsibility for the area, and any terms or conditions attached to the establishment order.

Urban development authority

In this case, a new entity would also be established by the Order-in-Council. This new urban development authority would be empowered to deliver the strategic objectives of the development project.



Step 4: Delivering the development

Producing the development plan

Once established, the urban development authority would produce a draft development plan for the development project. The urban development authority would need to work extensively with the community to develop the vision for the development project.

This would then inform the authority's work to produce a development plan that meets Government strategic objectives for the development project and the community's vision.

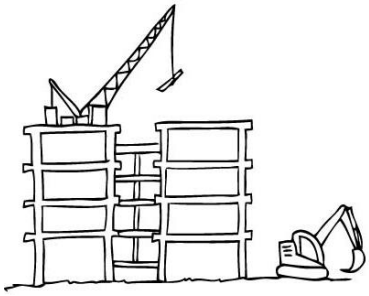
The proposed plan would be issued by the urban development authority for public consultation and revised in response to the feedback as necessary.

The final development plan would then be published and affected parties would have the opportunity to object to any elements of the plan they disagree with. These disagreements would be considered by independent commissioners who then advise the Minister of their view.

The Minister would then have the final say on whether to approve the development plan.

Delivering the development project

Once the development plan is confirmed by the Minister, the urban development authority would work with interested developers to deliver the plan.



Where development powers are needed in order to deliver a stage of the development plan (e.g. some roads need to be realigned), the lead development entity responsible for that precinct would seek permission from the urban development authority to exercise the relevant statutory powers.

Given the scale of development proposed in this scenario, the process of producing and finalising the development plan could take a year or more. Once the development plan is approved, the development itself would likely proceed in stages over an extended period (20+ years).

Appendix 3: Table comparing the proposal with Australian and UK examples

Legislation to support targeted urban development projects has a long history overseas. Generally, such legislation focuses on supporting a new entity to facilitate development of a particular area, often referred to as an "urban development authority".

Such authorities usually combine the powers of the public sector with the skills and finance of the private sector. When governed by a competency-based board of directors drawn largely from the private sector, who operate at arms' length from the Government, such entities are typically welcomed by private developers as the best means of unlocking urban development opportunities.

Cities such as Melbourne, Sydney, Adelaide and Perth are all using urban development authorities to drive urban transformation in particular areas. Similar approaches have been taken in the United Kingdom. Such agencies have demonstrated commercially viable and sustainable development, high quality design and urban regeneration. Some have also facilitated the provision of affordable housing, community facilities and services, and kick-started redevelopment in strategic areas where there was little market interest.

Topic / power	Current proposal	New South Wales	Queensland	Victoria	Western Australia	South Australia	United Kingdom
Broad legislative framework							
Statute(s)	Proposed Urban Development Authorities Act	Growth Centres (Development Corporations) Act 1974; State Environmental Planning Policy (Urban Renewal) 2010	Economic Development Act 2012	Urban Renewal Authority Victoria Act 2003	Metropolitan Redevelopment Authority Act 2011 (and associated Regulations)	Urban Renewal Act 1995	Local Government, Planning and Land Act 1980
Main urban development authority	Various eligible (e.g. Tamaki Regeneration Company, Panuku Development Auckland)	UrbanGrowth NSW	Economic Development Queensland (within Department of Infrastructure, Local Government and Planning)	Places Victoria	Metropolitan Redevelopment Authority (MRA)	Renewal SA	Various (e.g. London Docklands Development Corporation)
Overall objective of the legislation	Proposed legislation that enables nationally or locally significant urban development projects to operate with more enabling development powers and land use rules	Legislation to establish 'growth centres' and development corporations to manage and secure the economic development of the growth centre	To facilitate economic development and development for community purposes. It establishes a two-tier planning system to allow for expedited process if the possible benefits would be delayed to an unacceptable extent under the status quo	The Act establishes the Urban Renewal Authority Victoria to carry out or manage or co-ordinate the carrying out of urban renewal projects; contribute to the implementation of government urban planning and development policies; undertake 'declared projects' and to complete the development of the docklands area	The Act provides for the planning and redevelopment of, and the control of development in, certain land in the metropolitan region and establishes the Metropolitan Redevelopment Authority (MRA) as Perth's urban renewal authority	Allows for the establishment of development precincts and the appointment of a precinct authority	To secure the regeneration of urban areas

Topic / power	Current proposal	New South Wales	Queensland	Victoria	Western Australia	South Australia	United Kingdom
Type of projects contemplated by the legislation	Urban development projects, including housing, commercial and associated infrastructure	Any projects which can contribute to economic development	Any projects which can contribute to economic development	The legislation does not limit the type of project (though it defines urban renewal as "the redevelopment of large scale urban neighbourhoods")	Housing, commercial and regeneration projects	Regeneration projects and significant development projects such as large extensions to urban areas or new industry	Regeneration projects (this can include housing and commercial projects and projects to create "an attractive environment"
Decision maker in respect of new projects	Minister, subject to prior agreement of the relevant territorial authority(s)	Minister	The Minister for Economic Development Queensland (MEDQ), subject to advice from the Economic Development Board	Minister	Minister	Minister	Secretary of State, subject to prior approval by a resolution of each House of Parliament
Situations where the powers can be accessed	Subject to criteria (to be developed) government will retain the ability to choose if and when development powers are made available for development projects throughout New Zealand (including in greenfield areas at or beyond the edge of any existing built-up area)	A development corporation may be constituted in respect of a growth centre within any area (including, but not limited to, an urban area or a rural area)	A priority development area (PDA) can be declared on a discrete site to be used for a discrete purpose if the proposed development is consistent with the relevant local government's planning scheme for the area; and there is an overriding economic or community need to start the proposed development quickly	The Governor-in-Council (on the recommendation of the Minister) may declare a development or proposed development to be a project to which the Act applies. Places Victoria is then responsible for undertaking and managing projects on behalf of the Crown	Metropolitan land that can be used for regeneration projects, commercial or residential projects close to public transport, or the establishment of new industries	Projects that align with the strategic direction of Government and that will benefit from the powers that can be made available (i.e. the project would be subject to undue delays under the status quo)	Any situation where the Secretary of State is "of the opinion…that it is expedient in the national interest…"

Topic / power	Current proposal	New South Wales	Queensland	Victoria	Western Australia	South Australia	United Kingdom
Who can exercise the powers	Government will be able to allocate the development powers to either new or existing entities, providing they are publicly controlled (urban development authorities)	A Development Corporation which can exercise the powers in the Act is named for each growth centre	MEDQ can declare PDAs, plan PDAs and carry out economic development and development for a community purpose both inside and outside PDAs	Places Victoria (an urban renewal authority established under the Act)	MRA	A precinct authority (can be a Council, subsidiary of a Council, the Urban Renewal Authority or other statutory corporation established under this Act)	The urban development corporation that is established for each area
Types of thresholds that a proposed project must meet	No specific thresholds, but criteria are proposed (under development)	In determining whether a potential precinct could be progressed, the Director-General must have regard to a number of factors including the planning significance of the site, the suitability of the site for any proposed land use and the implications for local and regional land use, infrastructure and service delivery	The site must meet the main purposes of the Act – to facilitate economic development, and development for community purposes, in the state. Examples cited include job generation, increased investor confidence or the delivery of development with community benefit (e.g. housing)	The legislation does not seem to include any thresholds	The legislation does not seem to include any thresholds	No thresholds	No thresholds

Topic / power	Current proposal	New South Wales	Queensland	Victoria	Western Australia	South Australia	United Kingdom
Approach to public consultation	Two–stage consultation: Government must consult on the proposed development project and the UDA must consult on the proposed development plan	No explicit approach in legislation though a function of the Development Corporation is to "furnish reports on... any matter …which may be referred to it by the Minister"	No explicit approach to consultation on the proposed declaration of a PDA (though a 'local representative committee' may be established to advise the MEDQ on the impact of the proposed development on the area). In contrast, a development scheme must be consulted on	No explicit approach in legislation	No explicit approach to consultation on the proposed declaration of a redevelopment area. In contrast, a draft redevelopment scheme must be consulted on by the MRA	Nature of public consultation needs to be specified by Minister as part of establishing the precinct	No explicit approach in legislation
Approach to appeals	Substantive rights of objection occur at development plan stage. No appeals on establishment of an area and limited appeal rights in consenting phase	No appeals against the establishment of an area; appeals only against amount of compensation offered	Requires consultation with affected parties on proposed scheme; No appeals against making of PDA or scheme	No appeals against the establishment of an area; objections to amount of compensation offered or the levying of a development charge	No appeals specified against the decision to establish a redevelopment area; consultation (but no appeals specified) on the redevelopment scheme	No appeals against the decision to establish an area; public consultation on master plans required; where a precinct authority is authorised to exercise a statutory power, any standard appeal rights apply	Limited to appeals by roading authorities on the taking of interests in certain roads

Topic / power	Current proposal	New South Wales	Queensland	Victoria	Western Australia	South Australia	United Kingdom
Requirement to produce a development plan (or similar)	The urban development authority must develop a detailed development plan for the project area	The Development Corporation must submit a development scheme within a specified period of time	A development scheme must be prepared within 12 months. A scheme may provide for any matter considered necessary but must include a land use plan, a plan for infrastructure in the area and an implementation strategy	Not set out in legislation	MRA produces a draft redevelopment scheme for the redevelopment area	The precinct authority must prepare and maintain a precinct master plan and precinct implementation plan	The urban development corporation may submit any proposals to the Secretary
Approval of the development plan	Development plans approved by the Minister	Development schemes approved by the Minister	MEDQ approves the development scheme (with advice from the ED Board)	Not set out in legislation	Redevelopment schemes are approved by the Minister	Precinct master plans approved by the Governor on recommendation of Ministers; precinct implementation plan approved by Minister	Secretary of State (after consulting with local authority)
Role of local government	Development projects require the agreement of relevant territorial authorities, but not the regional council	Not set out in legislation	Local government must be supportive of any proposed PDA. In general, it is assumed that local government will suggest possible PDAs	Not set out in legislation	Not set out in legislation	Minister must consult with local government. Councils can initiate a precinct, be a precinct authority or be a participant in consultation	Secretary must consult with relevant local authority before designating an area and on proposed development of the area

Topic / power	Current proposal	New South Wales	Queensland	Victoria	Western Australia	South Australia	United Kingdom
Development powers available							
Compulsory land acquisition	Right to ask the Crown to exercise its powers	Similar powers available	Not specified	Similar powers available	Similar powers available	Similar powers available	Similar powers available
Subdivision and re-subdivision of land, and consolidation of subdivided land	Yes	Similar powers available	Not specified	Not specified	Similar powers available	Not specified	Not specified
Removal of any legal encumbrances from land	Yes	Not specified	Similar powers available	Not specified	Not specified	Not specified	Not specified
The power to assemble public land	Yes	Not explicitly - though the legislation implies that public land may be vested in a Development Corporation	Not specified	Similar powers available	Similar powers available	Not specified	Similar powers available – decision made by Secretary
Planning powers: a development plan can override other existing plans (e.g. regional plan)	Yes	Not specified	A development scheme must be consistent with other plans	Not specified	The Minister can amend local planning schemes to make them consistent with the redevelopment scheme	The master plan needs to be aligned with other state policy documents and should have regard to relevant Council documents	The legislation allows for urban development corporations to override local planning documents (if authorised by the Secretary)

Topic / power	Current proposal	New South Wales	Queensland	Victoria	Western Australia	South Australia	United Kingdom
The granting of land use consents	Yes	Not specified	A fast-tracked development application process is established in legislation	Not specified	A fast-tracked development application process is established in legislation	The Act includes broad enabling powers for a precinct authority to: • grant an approval, consent, licence or exemption; or • provide a service or infrastructure; or • impose and recover a rate, levy or charge; or • make by-laws …	An urban development corporation can be the local planning authority for the area
Powers relating to roading infrastructure	Yes	Can set out and construct roads within the growth centre	Similar powers available	Similar powers available	Similar powers available		Limited powers relating to "private streets"
Powers relating to water infrastructure	Yes	Powers relate to "the provision of utility services … for or in connection with the growth centre"	MEDQ may give a written direction to a government entity or local government to provide or maintain stated infrastructure in, or relating to, a PDA	Not specified	Not specified		Not specified
Powers relating to public transport facilities	Yes	Powers relate to "the provision of … public transport facilities for or in connection with the growth centre"		Not specified	Not specified		Not specified
Power to enter public and privately-owned land to undertake preliminary assessments	Yes	Not explicitly – though it can "do such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise or discharge of its responsibilities, powers, authorities, duties and functions"	Similar powers available	Similar powers available	Not specified	Similar powers available	Similar powers available

Topic / power	Current proposal	New South Wales	Queensland	Victoria	Western Australia	South Australia	United Kingdom
Power to require the local territorial authority to alter or upgrade any remote trunk infrastructure systems	Yes	Not specified	Similar powers available	Not specified	Not specified	Not specified	Not specified
Power to amend or suspend local by-laws	Yes	Not specified	Not specified	Not specified	Not specified	Similar powers available – see above	Some specific by-laws are mentioned in the legislation
Powers to access a range of funding tools	Yes	Not specified	MEDQ may make and levy on owners or occupiers of rateable land in a PDA a special rate or charge	The Authority can levy general charges or infrastructure recovery charges	The Act includes a regulation-making power to allow for the imposition of fees and charges	The Act includes a range of funding powers for statutory corporations established under this Act	Appears limited to appropriations and borrowing
Power to vest reserves in the UDA	Yes	Not specified	Not specified	Similar powers available	Not specified	Not specified	Reserve swaps are contemplated by the Act
Powers to classify, change the classification of, revoke or exchange a reserve	Yes	Not specified	Not specified	Similar powers available	Not specified	Not specified	
Broad catch-all provision	Not yet specified	The legislation includes the power for a development corporation to "do such supplemental, incidental and consequential acts as may be necessary or expedient…"	No explicit approach in legislation	The legislation includes the power for the Authority to "do all things necessary or convenient to be done for or in connection with, or as incidental to, the performance of its functions"	The Authority may "do all things that are necessary or convenient to be done for or in connection with the performance of its functions"	In addition to the powers above, the precinct authority can also "exercise any other statutory power that is necessary or expedient for… the proper exercise of the statutory power that is authorised by the Governor…"	The legislation includes the power for an urban development corporation to "generally do anything necessary or expedient for the purposes of the [objective]..."

Appendix 4: Land assembly and compulsory acquisition feedback prompts

As you consider your responses to the land assembly section of this discussion document (section 5), you may wish to reflect on the following points:

Acquisition by agreement (open market transactions)

- Should there be any conditions for, or oversight of, how an urban development authority can acquire land by agreement?
- What information or assistance would you like to see if you were negotiating with an urban development authority for the acquisition of your land?

Compulsory acquisition

- Do you consider that the proposed checks and balances on the use of compulsory acquisition are sufficient? If not, what else would you like to see?
- Should there be a time limit for how long an urban development authority has to acquire the land within a development project area? Alternatively, should you be able to require that an urban development authority acquire your land if negotiations have not yet commenced?
- Should there be some land where the power of compulsory acquisition is not available?
- While the proposal retains the right under the PWA to object to the acquisition in the Environment Court, this may extend the timeframe for acquisition. Do you consider that this is still appropriate?

Compensation

- Are there any other aspects of compensation or ways of delivering compensation that you think are worth considering in the context of urban development projects?
- Would you want the option of being able to take an equity stake or housing option in a development, rather than up-front payment for your land, if it is acquired by an urban development authority?
- What assurances would you want to see if you were to take an equity stake or housing option in the development project? What information or assistance would help make a decision about such options?

Public land

- Is public consultation on the proposed development plan sufficient to allow public comment on proposals to transfer public land to an urban development authority? Would you want to see something else?

Lesser interests

- Should existing encumbrances over land be able to be extinguished by an urban development authority?
- Should there be an additional test or requirement for the removal of some encumbrances over properties, such as heritage or conservation covenants? If so, what test or requirement do you consider is appropriate?

Amalgamation and subdivision of land

- Should an urban development authority be able to amalgamate, merge or subdivide land it has acquired in accordance with the approved development plan?

Appendix 5: Proposed responsibility for infrastructure – 3 scenarios

SCENARIO	SCALE & COMPLEXITY	INFRASTRUCTURE BUILD	OWNERSHIP during development project		FUNDING		MANAGE	DISPOSAL
			Existing assets	New assets	Within project area	Outside project area	Operate & maintain	
Scenario #1								
• UDA owns (part of) the land • UDA as the developer contracts construction of infrastructure (e.g. 3 waters, main roads) • UDA sells serviced land packages/lots to construction companies to build houses etc • E.g. Hobsonville, Tamaki Regeneration Company	• Medium / large scale • If brownfield: complex, with likely spatial redesign • If greenfield: moderately complex due to scale, new spatial pattern • Developments multi-staged • Timeframe: up to 20 years	**UDA** • Brownfield: existing local infrastructure assets within the project area may be upgraded by the UDA, which undertakes or contracts out construction work • Greenfield: UDA procures infrastructure	**TA / CCO** • Brownfield: existing local infrastructure assets would continue to be owned by the TA or CCO (e.g. Watercare) • Greenfield: no existing infrastructure	**UDA or Private Investment Vehicle (PIV)** … • until issue of sub-division consent (RMA 224c certificate), then automatically vests to TA • If there is residual debt on larger infrastructure, UDA or PIV must own the assets until debt is paid down, then power to vest in TA	• Existing assets: **TA** funds maintenance (with potential write-down or write-off) • New assets: **UDA or PIV** funds construction, using funding powers • Costs to build are either included in property sales prices via development contributions, or in long-term targeted rates	• UDA pays development contributions to TA for upgrades to infrastructure outside the area that benefits landowners inside the area • TA pays charges to UDA for any new large infrastructure inside the area that benefits landowners outside the area	New assets with no debt: **TA** New assets with debt: **UDA/PIV** • Contracts services provider (e.g. TA, Watercare), although could potentially use third party (e.g. Serco) • Default requirement for TA to operate and maintain, subject to receiving fee	**UDA/PIV to TA or nominee** • Vesting upon completion of local infrastructure and issue of sub-division consent (224c certificate) • UDA/PIV to TA (vesting upon debt being paid down)

SCENARIO	SCALE & COMPLEXITY	INFRASTRUCTURE BUILD	OWNERSHIP during development project		FUNDING		MANAGE	DISPOSAL
			Existing assets	New assets	Within project area	Outside project area	Operate & maintain	
Scenario #2								
• UDA owns (part of) the land • UDA has no direct role in procuring infrastructure • UDA sells land to land developer • Land developer constructs infrastructure • Land developer builds houses etc itself (e.g. Fletchers) or sells serviced land to construction companies to build houses etc (e.g. McConnell at Addison)	• Medium scale • If brownfield: moderately complex, with likely spatial redesign • If greenfield: low to moderate complexity, new spatial pattern • Developments multi-staged • Timeframe: up to 10 years	**Land developer** • Brownfield: existing local infrastructure assets within the project area may be upgraded by the land developer, which undertakes or contracts out construction work • Greenfield: land developer constructs infrastructure	**TA / CCO** • Brownfield: existing local infrastructure assets would continue to be owned by the TA or CCO (e.g. Watercare) • Greenfield: no existing infrastructure	**Land developer or Private Investment Vehicle (PIV)** … • until issue of sub-division consent (RMA 224c certificate), then automatically vests to TA • If there is residual debt on larger infrastructure, land developer or PIV must retain ownership until the debt is paid down, then there is a power to vest in the TA	• <u>Existing assets</u>: **TA** funds maintenance (with potential write-down or write-off) • <u>New assets</u>: **Land developer** adds charges to property sales prices **or** • <u>New assets</u>: **PIV** recoups the costs using funding powers, with revenue from long-term targeted rates	• Land developer pays development contributions to TA for upgrades to network infrastructure • TA pays charges to PIV for any new large infrastructure inside the area that benefits landowners outside the area	<u>New assets with no debt</u>: **TA** <u>New assets with debt</u>: **Land developer/PIV** • Contracts services provider (e.g. TA, Watercare), although could potentially use third party (e.g. Serco) • Default requirement for TA to operate and maintain, subject to receiving fee	**Land developer/PIV to TA or nominee** • Vesting upon completion of local infrastructure and issue of sub-division consent (224c certificate) • PIV to TA (vesting upon debt being paid down)

SCENARIO	SCALE & COMPLEXITY	INFRASTRUCTURE BUILD	OWNERSHIP during development project		FUNDING		MANAGE	DISPOSAL
			Existing assets	New assets	Within project area	Outside project area	Operate & maintain	
Scenario #3								
• Developer(s) own the land (UDA may have never owned or managed land) • UDA exercises powers only • Developer(s) build infrastructure and houses etc, **or** • Land developer builds infrastructure and construction companies build houses etc (traditional development approach)	• Small / medium • If brownfield: moderately complex with some spatial redesign • If greenfield: developments as per usual subdivision approach • Developments can be staged • Timeframe: 3 to 10 years	**Developer** • Brownfield: existing local infrastructure assets within project area may be upgraded by the UDA, which undertakes or contracts out construction work • Greenfield: **Developer** constructs infrastructure	**TA** • Brownfield - existing local infrastructure assets would be owned by the TA • Greenfield – no existing infrastructure	**Developer** • Until issue of sub-division consent (RMA 224c certificate) issued then vests to TA	• <u>Existing assets</u>: **TA** funds maintenance (with potential write-down or write-off) • <u>New assets</u>: **Land developer** adds charges to property sales prices	• Developer pays development contributions to TA for upgrades to network infrastructure	<u>New assets with no debt</u>: **TA** <u>New assets with debt</u>: **Developer or land owners** • Contracts services provider	**Developer to TA or nominee** • Vesting upon completion of local infrastructure and issue of sub-division consent (224c certificate) • Developer to TA (vesting upon debt being fully repaid) • For smaller or privately owned developments, developer may vest infrastructure assets in land owners via private vehicles to own and operate