

## C. Stakeholder Guide: Regional councils

### Why is the Government proposing new legislation?

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

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

### Where will it happen?

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

### Regional Councils and the urban development legislation

Regional councils will have to be consulted over the establishment of an urban development project/area, and will be able to provide input into the development plan for the area. In preparing the development plan, the urban development authority will also need to have regard to the regional policy statement and any regional plans applicable to the development area.

The impacts that the urban development legislation will have on regional councils and the opportunities that regional councils will have to be involved in urban development projects established under the legislation are:

- at the establishment stage
- at the development plan
- as the administering body and consent authority for the relevant regional policy statement and any applicable regional plans for the project area;
- as an infrastructure provider (e.g. for bulk water supply or public transport services and infrastructure); and/or
- having an interest in the land (i.e. as an owner/administrator of a reserve in the project area).

### Proposed process

The proposed process for setting up an urban development project includes the following two stages (illustrated on pages 14-15 of the discussion document):

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

### Framework for identifying and assessing development projects (Proposals 1 - 21)

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 the urban development authority the more enabling development powers required to achieve the project's strategic objectives.

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

Prior to publicly proposing a development project for consideration, officials must undertake an initial assessment of the project. 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 initial assessment must include consultation with public landholders; requiring authorities; and where they already exist, with the entities that are proposed to lead the development and be the urban development authority (Proposal 24).

### Consultation (Proposals 25 - 33, 55)

A development project may be established without the prior agreement of the regional council (Proposal 55). However, to inform the assessment of whether to establish an urban development project, government must engage with a range of relevant groups, which **must** include the relevant regional council for the development area (Proposal 28).

If the initial assessment makes a case for establishment of the urban development project there must be public consultation on a range of matters including:

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

## Urban development authorities discussion document

The Government or the Mayor of the relevant territorial authority must seek the public's feedback on the proposal. An interested member of the public can make a submission and the Government **must** engage with relevant iwi and hapū groups and post-settlement governance entities that have an interest in land in the proposed project area and the relevant regional council (Proposal 28).

### **Establishing a development project** (Proposals 31 - 33)

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

The Government may stipulate binding conditions when it establishes the project (e.g. that any area of significant biodiversity within the development area are protected).

Subject to the outcome of the pre-establishment consultation, and securing the agreement of the relevant territorial authority(s), the Minister will make the final decision to recommend establishing the project to the Governor-General, who would give assent via an Order-in-Council.

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

### **Preparation and approval of the Development plan** (Proposals 34 – 39, 41 - 49)

The urban development authority must develop and publish a draft development plan for the development project. The urban development authority is required to consult with the regional council (and territorial authority) on the content of the draft development plan.

The regional council may make a submission on the draft development plan during the public consultation period. The urban development authority may amend the draft plan in response to any of the submissions received, and finalise the development plan for recommendation to the Minister.

If a regional council has an interest in land within the development project area or is a requiring authority, then it qualifies as an "affected person", and may lodge an objection to the recommended plan. If there are objections to the recommended plan, the plan and all objections are considered by independent commissioners appointed by the Minister, who may recommend to the Minister that 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.

The final decision on the development plan by the Minister is not subject to appeal on its merits to the Environment Court, but may be subject to judicial review. The new regulatory provisions in the development plan take effect upon suitable notice being given of the Minister's final approval.

### Contents of the development plan (Proposals 40 and 102 - 104)

The development plan must state the strategic objectives for the urban development project, the powers that have been provided and how those powers are proposed to be exercised to deliver on the strategic objectives. It must also show how any conditions attached to accessing the development powers will be fulfilled.

The development plan must include an assessment of effects on the environment, including cumulative effects, and state the parameters of any infrastructure charges or development contributions. It must also identify any further development powers that the urban development authority has not been granted but proposes to apply for.

#### For resource management matters, the development plan must:

- show how the planning powers will deliver on the strategic objectives and relevant matters under the RMA;
- identify for the project which provisions of the regional policy statement, regional plans and district plan apply and incorporate them by reference into the development plan;
- prescribe the rules to apply within the development project;
- classify all activities identified in the plan under one of the activity classifications;
- describe the processes for:
  - obtaining a consent;
  - establishing and rolling-over a designation within the project area;
- treat all other activities not expressly included in the development plan, under a separate consenting process;
- describe how the project will be integrated back into the wider planning context of the surrounding district (and region);
- give effect to any applicable national level RMA instruments;
- adopt the same protections for significant historic heritage sites usually provided through district and regional plans; and
- have regard to the relevant regional policy statement and regional plan.

### Decision making hierarchy (Proposals 97 and 106)

As with all other decision makers, when making decisions on planning and land use regulations that apply to any part of a development project area, the regional council **will be** required to 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.

### Proposed Powers

As with all of the powers under the legislation, the Government will have discretion over the selection and extent of the powers that are granted and can place specific conditions on them.

#### **Regional Policy Statements and Plans** (Proposals 98 – 101)

The development project's strategic objectives set the framework for the development plan. If an urban development authority is granted powers to override (or replace) a regional policy statement, and those powers are exercised, the regional policy statement will cease to apply in the development area to the extent that it is inconsistent with the development plan. An applicable regional policy statement's objectives and policies may be included in an urban development project's strategic objectives at the establishment stage.

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

Regional councils **must** have regard to development plans when reviewing their plans and policy statements (Proposal 48).

If an urban development authority is granted powers to override existing or proposed regional plan(s) or district plan, the development plan will replace those plans in the project area. If powers to override are constrained to particular provisions in a plan, the plan will be – to the extent it is not specifically overridden – incorporated (or incorporated by reference) in the development plan.

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).

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

#### **Regional councils and consenting** (Proposals 105, 108 - 109)

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

When exercising the powers and making decisions both the urban development authority and the regional council must follow the decision making hierarchy outlined above under 'Decision making'.

## Urban development authorities discussion document

There are two consenting processes outlined in the discussion document. The first process (Process A) is for activities included in the Development Plan (Proposal 108). Process B, the second process (Proposal 9), is for all other activities not included in the Development Plan. A Regional Council must use these processes when processing consents for the development area during the life of the development project. The processes introduce a streamlined process and shortened timeframes for processing.

### **Designations and heritage orders (Proposals 110 -111)**

If a regional council is responsible for a designation within the urban development area it may seek a roll-over of the designation at the time that the development plan is drafted. The urban development authority may, however, recommend the removal of a designation in the development area. The Minister has the final decision on roll-over or removal.

Should a regional council as a requiring authority want a new designation in the urban development area, the urban development authority has the discretion to approve or decline the designation. If the urban development authority and the requiring authority cannot agree then the matter is referred to the independent commissioners who make a recommendation to the Minister. The Minister makes the final decision.

### **Interests in land (Proposals 72 - 88)**

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

The new legislation will also include 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. Compensation for such transferred land is in the same manner as it would be if the land was compulsorily acquired under the Public Works Act 1981.

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 within the boundaries of the urban development project. While no new types of public works are proposed, urban development projects are likely to encompass most of the public purposes that are currently considered to be public works under the PWA (including urban renewal purposes).

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

### **Reserves (Proposals 89 – 96)**

The legislation provides powers for an urban development authority to classify, change the classification of, revoke or exchange the following types of reserves in the urban development area:

- recreation reserves;
- local purpose reserves;

- scenic reserves;
- historic reserves; and
- government purpose reserves.

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

### **Infrastructure services** (Proposals 112 -118)

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

- local roads, connections to state highways and any road-related infrastructure such as street lights, signage, footpaths and cycle-ways;
- water supply, wastewater, storm water and land drainage infrastructure systems, including related trunk infrastructure and plants; and
- 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.

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 urban development authority is required to consult and collaborate with infrastructure providers in planning and delivering the required infrastructure.

### **Dealing with infrastructure when winding-up a development project** (Proposals 127 – 131)

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

New local infrastructure (of the sort usually provided in a new subdivision) would automatically vest in the relevant territorial authority as with 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.

## Urban development authorities discussion document

A table summarising the proposed responsibility for new and existing infrastructure in three scenarios under the proposals is contained in Appendix 5 of the Discussion Document.

### **Infrastructure funding (Proposals 132 – 145)**

An urban development authority will require access to a broad range of powers to encourage investment in, and independently fund, new infrastructure. Section 8 of the discussion document proposes powers that would enable urban development authorities to buy, sell and lease buildings as well as access Crown funding and debt and equity financing. The proposed legislation would also enable an urban development authority to 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 investment vehicle.

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

### **How can I have my say on the proposed legislation?**

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