

19 May 2017

Construction and Housing Markets, BRM  
Ministry of Business, Innovation and Employment  
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Via Email: UDAConsult@mbie.govt.nz

Attention: Urban Development Authorities Discussion Document

**RE: URBAN DEVELOPMENT AUTHORITIES DISCUSSION DOCUMENT – CHRISTCHURCH CITY COUNCIL SUBMISSION**

**1. Introduction**

Christchurch City Council (the Council) welcomes the opportunity to submit on the Urban Development Authorities discussion document.

The following submission has been developed by the Council, in consultation with Development Christchurch Limited (DCL)<sup>1</sup>, the Canterbury Development Corporation (CDC)<sup>2</sup> and the Greater Christchurch Urban Development Strategy partnership (UDS)<sup>3</sup>. However, we note that the UDS partnership and DCL may provide their own separate submissions on the discussion document and this submission is not intended to replace or detract from either of those.

This submission is broken into general submission points (below) and specific submission points that form **attachment A**.

**2. General submission points**

In developing this submission, the Council has drawn upon its experience as a proponent or party in establishing projects under the Greater Christchurch Regeneration Act (GCR Act), its involvement with the Canterbury Earthquake Recovery Act (CER Act), and its experience in undertaking the Replacement District Plan using the Canterbury Earthquake Recovery (Christchurch Replacement District Plan) Order 2014. This experience has been extremely helpful in developing an understanding of the advantages and disadvantages of using specific powers and expedited planning processes in a range of contexts. The Council considers there is merit in exploring the lessons learnt from the specific post-earthquake recovery legislation, such as the GCR Act, which put in place interventions not dissimilar to those being promoted through Urban Development Authorities (UDA's).

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<sup>1</sup> DCL was established in mid-2015 to contribute to the well-being of Christchurch through the improved economic, social, community, and environmental outcomes that successful development, investment and regeneration bring. DCL is a wholly owned subsidiary of Christchurch City Holdings Limited.

<sup>2</sup> CDC is the economic development agency for Christchurch City Council.

<sup>3</sup> The UDS partnership comprises the Councils of the Greater Christchurch area (CCC, Environment Canterbury, Selwyn & Waimakariri), Te Rūnanga o Ngai Tahu and participation from NZTA, the CDHB, the Greater Christchurch Group of DPMC and Regenerate Christchurch.

The Council agrees with the Minister in his Foreword that we are entering a new phase of City development involving substantial redevelopment of existing urban areas, and that the issues require specific approaches and institutional arrangements tailored to the circumstances. The UDA proposal recognises this, and is a potential response to several long standing issues that are impeding implementation of development policies and plans.

It is the Council's experience that implementing plans and strategies to produce quality outcomes is challenging without some form of direct public intervention in the development process. Methods to incentivise site amalgamation, fund upfront infrastructure provision and remove other land use related barriers that are prohibiting profitable quality development are seen by the Council as being crucial to the City's future growth and prosperity. The ability for a UDA to offer a range of implementation tools and collaborative processes that will assist in reducing these barriers to development is an important step towards facilitating urban development. To this extent, having a public development vehicle, such as a UDA, is seen by the Council as an important step in dealing with the issues highlighted by the Minister.

However, the Council considers that the term Urban Development Authority does not connote the preferred collaborative approach that is signalled in the document. The Council therefore considers that Urban Development Authorities be renamed Urban Development Partnerships which, the Council considers, better describes the modus operandi needed to improve the four wellbeing's in New Zealand's main urban areas, engage meaningfully with the community, and transform our cities into innovative centres of excellence. We consider the success of the proposed legislation will depend as much on collaborative leadership, building relationships and bringing relevant parties to the table, as it does about power.

The Council sees opportunities for the legislation to support the current institutional arrangements within Christchurch, particularly with DCL. However, with Regenerate Christchurch and Ōtākaro Limited, currently operating in a similar fashion to Urban Development Authorities, albeit under different legislation, UDAs would seem to be superfluous in Christchurch at the present time. Beyond the 'regeneration' projects currently undertaken by Council, Regenerate Christchurch, Ōtākaro Limited and DCL, it is unclear what other potential large scale projects in Christchurch could qualify as being nationally or locally significant and therefore benefit from the use of this toolkit. While the proposed legislation would present Council with options on moving forward with post-earthquake recovery, regeneration and renewal, given the scale of projects envisaged in the discussion document Council may choose not to pursue any projects under the proposed legislation.

An alternative would be for UDAs to be flexible enough to deal with various scaled projects, from Central City revitalisation to small suburban scale renewal projects. However, the funding required for establishing a UDA, is likely to be significant and could deter Council's from embarking on smaller but locally significant renewal projects. This could be resolved by the legislation having a clear purpose and criteria for establishing a project, rather than thresholds, but the key will likely be the availability of 'seed funding'.

The Council notes that there are synergies with the Resource Legislation Amendment Act 2017, subpart 4, Collaborative Planning Process and the opportunities for UDAs to use this mechanism. The legislation should also be more explicit that Part 2 of the RMA takes precedence in preparing development plans. Moreover, the range of powers available to a UDA are broad and enable the users of these powers to circumvent normal RMA processes. As such they should be used sparingly and only in situations where there is a pronounced public benefit that would be unlikely to materialise without the use of these powers. The Council does not support UDA's having consenting powers.

Section 8 (Funding and Financing) misses the key factor in initiating development – risk. More information is needed on how to reduce the exposure of local authorities to the impacts of changing financial conditions to the rate of development. The UDA and its powers should not be applied in isolation from other implementation instruments and incentives, including tax and other fiscal instruments at Central Government’s disposal. Moreover, it appears the Council will be funding administration costs for the UDA and further clarification is needed on some of the funding and financing proposals outlined in Section 8.

While there is no mention of natural hazards, there could be scope to address natural hazard issues through a UDA, either as a constraint or as a mitigation measure, particularly where achieving desired outcomes rely on integration and implementation through a range of different statutes and policies.

The establishment phase process is light on fostering integration of Government Agencies who are key service providers in any areas pursuing successful regeneration – Health, Education, Social and Community Services. There needs to be the ability to require them to ‘act consistently’ with or at least ‘consider’ an approved Development or Framework Plan within their own Strategic Plans. Any legislation should make it explicit that UDAs should, as a core purpose, be addressing urban social issues that are outside of the ability of the District Plan or local authorities to effectively tackle. Community renewal has an important social component and addressing, for example, housing issues in the absence of concomitant social initiatives will be ineffective in dealing with problems at the community level. UDAs will need Central Government support to influence SOEs, its social agencies and other government and quasi government agencies so that their collective resources and priorities converge.

The Council seeks that a UDA is aligned with the overall direction and broad objectives of the regional policy statement and district plan. Further consideration of the community outcomes of the Council, either as part of the criteria or purpose, is necessary for consistent development of a region. The role of regional councils needs to be enhanced, given their wide range of responsibilities under the RMA, LTMA and LGA that influence the natural and built environment in urban areas. There are some outstanding matters to resolve or clarify relating to the extent and content of any assessment and supporting reasoning and analysis to be prepared as part of the plan preparation.

The right of the Council to veto the establishment of a UDA is a critical part of the legislation and the Council will not support any legislation which removed this provision.

The Council asks for wider engagement early (pre-establishment) to provide better transparency and accountability. Furthermore, the strategic objectives for the development plan should not be set before consultation. The assumption that this consultation process also meets the Consultation Test of the Local Government Act also needs to be tested, especially given the territorial authorities, final decision on funding commitments will not be made until after consultation is completed.

Finally, the Council would not support the autonomy of UDAs to undertake certain works such as reclassify, exchange or revoke reserves without appropriate delegations and safeguards.

### 3. Conclusion

Thank you for the opportunity to submit on the discussion document. If you require clarification on the points raised in this submission or additional information, please contact Ivan Thomson, Team Leader, City Planning on 03 941 8813 or email [ivan.thomson@ccc.govt.nz](mailto:ivan.thomson@ccc.govt.nz).

Yours faithfully



Hon Lianne Dalziel  
**Mayor**



Dr Karleen Edwards  
**Chief Executive**

## ATTACHMENT A

### Specific submission points

#### Proposals: Framework – Core components (Proposal 1 – 10)

The Council is generally supportive of the core components of a UDA, especially providing a tool to better enable large scale urban development. The Council supports the role of territorial authorities in working collaboratively with Central Government to determine the key elements of each development project and the powers afforded to each UDA. However, the central-local government relationship needs to be better understood, particularly regarding cost sharing and risk taking.

Clearly a core component is a collaborative relationship, not only between tiers of government, but also with the private and voluntary sectors. Key success factors are leadership and partnership and in recognition of this the Council seeks that the proposed new entity be called Urban Development Partnerships to recognise:

- shared responsibility for outcomes;
- each partner has something to bring to the table;
- enduring relationships; and
- equal power and power to act.

The Council considers that such an approach will deliver superior outcomes.

The Council recommends that the outcomes sought (e.g. well-designed communities) are more clearly defined as is to how to understand what is ‘nationally or locally significant urban development projects’ (Proposal 1). Without this, there is a lack of clarity, transparency and ultimately accountability. The Council submits that the objectives of the development project must demonstrate that the project will deliver a public good to the community or wider urban area or both (refer to Proposal 21).

The Discussion Document is silent on whether there will be direct Government funding to establish or otherwise support the project. Access to a facility such as the \$1 billion dollar interest free loan for infrastructure would provide Councils with more confidence entering into the project, provided it did not add to the Council’s debt.

#### Proposals: Framework – Scope (Proposal 11 – 14)

The definition of ‘urban’ should be based on the urban boundaries in a Regional Policy Statement (RPS) or district plan. Land outside of a defined urban area could undermine the land use pattern established within an RPS. The focus should be to overcome the impediments to planned greenfield that has been the subject of a robust Section 32 (RMA) analysis such as fragmented rural ownership, lack of servicing capacity and difficult ground and contamination conditions.

The Council supports the present wording of Proposal 14 which excludes private developers becoming UDA’s.

#### Proposals: Framework – Application (Proposal 15 – 20)

Proposal 18 mentions commercial and business projects, although there is a lack of discussion of these within the document. Such developments should focus on cleaning up contaminated and redundant sites and converting them into modern well serviced areas that generate employment, mixed use, or housing.

The Council generally supports proposals 19 and 20 particularly ‘acute housing need’ or/and high deprivation. The Council suggests that the framework include more explicit references to affordable housing. However terms like ‘acute housing need’ ‘standalone infrastructure projects’ and ‘fragmented land ownership’ and ‘underutilised residential neighbourhood’ could be open to interpretation or broad enough to apply to any residential land. These terms need to be qualified if possible.

UDAs using land use development tools by themselves are not a panacea for solving urban social issues. They need to be complemented by social development initiatives e.g. around education, drug rehabilitation as well as employment. The Southern Initiative in Auckland could be a possible model.

#### Proposal: Framework – Benefits (Proposal 21) – Securing public good outcomes.

This is supported. It is essential that the strategic objectives for a development project should include delivery of public good outcomes – otherwise there is no direct public benefit from their establishment.

#### Proposals: Processes – Establishment stage (Proposal 22 – 33)

The initial assessment process may identify projects that, while not requiring access to the full suite of potential UDA powers, still have merit through providing explicit leadership, better collaboration and shared funding between central agencies and local government. The Council supports this ‘horses for courses’ approach to using the powers available.

The proposed process does not include adequate communication with all affected residents at the establishment of the project, just public landholders. Potentially, the first stage of directly affected residents involvement or knowledge of a project would be at the pre establishment consultation stage along with the general public. Further, there is a likelihood that by this stage in the process, that consultation could be viewed as tokenistic as key parts of the project already started. There should not be any presumption in the legislation that the proposal will proceed to the development plan stage, particularly since there are no appeals on the decision to formally establish the project.

A concern for the Council is the upfront cost on the Territorial Authority in undertaking an initial assessment of every UDA proposal (outlined in Proposal 23), especially considering the scale of developments intended. Further, as this is when the TA can ‘effectively veto’ a proposal, the Council will need to be assured of the benefit of the development. The establishment of a cost-sharing arrangement would assist in assuring the TA can be confident of the assessment.

#### Proposals: Processes – Development plan stage (Proposal 34 – 39)

There appears to be no requirement for a fully reasoned justification or evaluation of options akin to a Section 32 assessment under the RMA. This should start at the establishment stage with an assessment of alternatives and carry on through to the development plan stage with an assessment of land use options. It is noted that some of this is intended to be in the development plan itself, but the Council suggests it be a separate supporting document.

#### Proposals: Processes – Contents of the development plan (Proposal 40)

As stated elsewhere in the submission the strategic objectives for the projects should not be inconsistent with other relevant statutory documents. Part 2 of the RMA should retain primacy.

#### Proposals: Processes – Objections (Proposal 41 – 42)

It is suggested that the decision on whether or not to hear submissions is made at the establishment stage so it is built into timeframes, and submitters know in advance whether they will have a chance to speak in support of their submissions.

#### Proposals: Processes – Approval of the development plan (Proposal 43 – 48)

While there is merit for the process to have a final approval, it could be a lot of work throughout the whole proposed process only for it to be turned down by the Minister. The risk of this could be reduced if there is an additional clause 44(e) whereby the Minister can refer the Plan back to the Commissioner to reconsider specific matters.

#### Proposals: Processes – Role of territorial authorities (Proposal 50 – 54)

With regards to Proposal 51, and stated previously, it is the Council not the Mayor that has the delegated responsibility to approve consultation. The Council specifically supports Proposal 50.

#### Proposals: Processes – Role of regional councils (Proposal 55)

It is suggested that agreement must be sought from the regional council on matters of regional significance.

#### Proposals: Urban development authorities – Organisational form (Proposal 56 – 61)

The establishment of a UDA could involve significant cost to acquire the people with the right skills and this could be over burdensome to establishing project specific UDA's. There needs to be a fund available that a new UDA could access to secure initial funding that can be re-paid once the project is underway.

The Council is concerned of the effect of multiple UDA's (or one UDA with multiple projects) operating within the city over a long time essentially running parallel to the territorial authority with different objectives.

As noted, the Council suggests that Urban Development Authority's be renamed Urban Development Partnerships. This better encapsulates the collaboration between local and central government agencies and working with the public.

Proposal 60 states that territorial authorities are eligible to become a UDA, however it is unclear how it is a 'majority publicly controlled entity that 'will have a board of directors' (P39).

#### Proposal: Urban development authorities – Objectives (Proposal 62)

The Council requests a third Objective: to act in the public interest.

#### Proposals: Urban development authorities – Accountability and monitoring (Proposal 63 – 64)

The Council seeks more information regarding what is the course of action is should a UDA not be meeting its objective. Also, more information is needed regarding what the requirement, including timeframes, of the monitoring. There will need to be significant funding and power given to monitor and enforce compliance with the development plans.

#### Proposals: Urban development authorities – Disestablishment (Proposal 69 – 71)

It is unclear within Proposal 71 who carries the loss when a UDA becomes financially unviable or does not achieve its purpose.

#### Proposals: Land assembly – Market based negotiations (Proposal 72 – 74)

It should be made clear that the UDA should not be able to purchase land before the development plan is prepared as it is unknown what the land is required for, and it would seem unethical.

#### Proposals: Land assembly – Compulsory acquisition (Proposal 75 – 81)

Acquisition powers if needed are justified to achieve clearly defined strategic objectives of a social nature such as social and affordable housing requirements. Whether acquired voluntarily or



compulsorily, public land owned by a UDA should be treated as a long term investment to achieve a range of housing and other community outcomes.

[Proposal: Land assembly – Value of compensation \(Proposal 82\)](#)

Proposal 82 is supported. This is a key principle in capturing value uplift for housing developments that result from higher density zoning or more housing than before, especially in achieving social and affordable housing objectives. Further, by purchasing land at underlying use value it can potentially encourage more diverse forms of ownership, e.g. shared equity housing. However care is needed (see the Council's comment of Proposal 72-74 above).

[Proposals: Land assembly – Assembling public land \(Proposal 83 – 84\)](#)

The Council seeks more involvement in early phases with stakeholders and directly affected people.

[Proposals: Reserves – General matters \(Proposal 89 – 91\)](#)

The Council seeks that public consultation regarding uplifting or exchanging reserves be more explicit. It is unclear whether this process removes consultation or consolidates consultation into one process. The Reserves Act 1977 has specific consultative procedures that should be included or the appropriate consultation in the process identified as such.

The Council conditionally supports the exchange of Council administered reserves as long as the Council maintains its veto provision, otherwise it appears that Central Government could potentially be the proponent and decision-maker on a development project which includes an exchange or revocation of land administered by Council.

[Proposals: Reserves – Other matters \(Proposal 92 – 93\)](#)

The Council provisionally supports reserve exchange if it continues to meet the Section 15(1) of the Reserves Act, which must provide for at a minimum the same purpose and values as the original reserve.

[Proposals: Reserves – Other matters \(Proposal 95 – 96\)](#)

The Council agrees that there may be instances where reserves established in the past may no longer retain their original function, have little foreseeable future value, and are not located to provide a community resource. In these any possibly other situations revocations and exchanges could be appropriate,

[Proposals: Planning, land use and consenting – Decision-making considerations \(Proposal 97\)](#)

The hierarchy of considerations seem logical if an urban development authority is in place. It is however silent on notification provisions. This section overstates the impact of planning on development feasibility.

Depending on the scale, the development plan will replace the land use zone in the district plan. If there are new objectives these should be achieving part 2 of the RMA and, as stated above, there needs to be a Section 32 type assessment on how they do this. Further, all projects should have regard for the objectives and policies within a regional policy statement.

[Proposals: Planning, land use and consenting – Role of existing RMA instruments and entities \(Proposal 98 – 100\)](#)

The role of a UDA should fit with the objectives of a regional policy statement and the district plan; i.e. the strategic directions of the project need to give effect to the district plan objectives.



There are quite a few logistical challenges with consenting powers being given to a UDA such as electronic databases etc. These records are needed for LIMs. There is also an interrelationship with building consents where there is cross referencing of plans. There may also be issues around the independence role of the UDA approving consents. At the end of the day it shouldn't matter who the consenting authority is, what is important is the framework in place and if that is right the correct decision should follow.

With regards to Proposal 99, the Council considers that a UDA should not take priority over the surrounding planning context, but accepts that integration is necessary- any review of the planning context will recognise the UDA area.

It seems sensible to retain this veto power during that period otherwise there could be positioning by parties.

Proposals: Planning, land use and consenting – Consenting and enforcement (Proposal 105 – 107)

The Council conditionally supports the hierarchy as long as the development of strategic objectives has given regard to the RMA. With respect to Proposal 106 (c), it has narrowed the sections of the RMA to 104-107 and it is a little unclear how other sections of the RMA apply. For example, is section 108 relevant, are sections 125-128 relevant?

Proposals: Planning, land use and consenting – Activities included in the development plan (Process A) (Proposal 108)

The Council generally supports this process as the activities are provided for, so the process is more streamlined. This, however, relies critically on robust provisions in the development.

The timeframes identified are shorter than the standard RMA timeframes, however if the right framework is established these will not be an issue.

Proposal 108 (f) is unclear as to what regulations would apply.

(j) Third party appeal rights curbed. Only recourse is judicial review. Normally the case for non-notified consents but seems there is no right of appeal on notified consents.

Proposals: Planning, land use and consenting – Activities not included in the development plan (Process B) (Proposal 109)

The Council is generally supportive of this process, however an application of an activity not provided for does not provide a process for breaches in standards e.g. height, and how an assessment can be made.

Proposals: Infrastructure – Independent method for providing infrastructure (Proposal 119 – 122)

The Council disagrees with Proposal 119 as the UDA will only have visibility of its own needs and not the needs of the rest of the city and their relative priorities. Giving the UDA the power to require local authorities to deliver infrastructure earlier would undermine the role of the Council in undertaking city-wide planning and optimisation of infrastructure projects for growth, and could lead to the inefficient provision of infrastructure. The UDA should at most be able to require the local authority to provide adequate trunk infrastructure capacity for its development. The UDA should not have the power to be specific on how to achieve the outcome.

The Council thinks that territorial authorities should continue to be responsible for constructing the trunk infrastructure to which the development will connect, otherwise several risks arise. These include an uncoordinated approach across the infrastructure renewal and upgrade portfolio (e.g. water supply upgrades on a street not being coordinated with pavement renewal), infrastructure being built which does not meet Council's design standards and specifications, and poor connectivity with existing infrastructure (e.g. if a standalone water supply scheme was built to service the development). It may also result in a loss of economy of scale. All of these could result in increased development costs and poor quality infrastructure outcomes.

The Council therefore recommends an alternative approach which mirrors the current approach for providing infrastructure for new developments. In this case, the developer is responsible for constructing the local infrastructure within the development footprint, in accordance with Council's design standards and specifications. The infrastructure is then vested in Council which is then responsible for operating and maintaining the infrastructure.

The Council disagrees with Proposal 120 as it could have far reaching implications on the Council's overall development plan for the city as well as on its long-term infrastructure plans, should land be earmarked which has otherwise been assigned. It could potentially contradict the strategic direction as dictated by long-term planning (e.g. decentralisation vs centralization), and it could have a negative impact on levels of service and on other public utilities.

The Council agrees with the intent of Proposal 122, as it goes some way to addressing concerns about the quality of trunk infrastructure built by the UDA. However, the Council is of the strong view that it should not be limited to state highways and railways, but should be expanded to include all trunk infrastructure (roads, water supply, wastewater and stormwater), otherwise there is a risk that the infrastructure will not be built to Council's design standards and specifications. The Council proposes the following wording:

*122. Prior to exercising any powers relating to state highways, ~~or~~ railways, **roads, water supply, wastewater and stormwater** the prior agreement of the relevant **territorial authority, 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.*

This concern is not sufficiently addressed by Proposal 125, which only requires the UDA to consult and collaborate with the territorial authority about the proposed infrastructure location, system performance requirements, construction and quality standards, levels of service, operating implications and connections to existing systems.

#### Proposals: Infrastructure – Link with local government planning (Proposal 123 – 124)

The Council strongly opposes the proposed power of the UDA under Proposal 123(a) to require a territorial authority to amend its Long Term Plan to provide infrastructure at a time to suit the UDA's development. This could pose significant financial risks to the Council. Due to funding constraints there is a limit to the capital expenditure the Council can undertake each year, and the Council is already close to that limit each year. If the Council is directed by the UDA to undertake additional capital works sooner than planned, this could mean the Council has to defer other capital projects to achieve this, which could have significant consequences that the UDA was unaware of.

An alternative approach would be for the UDA to enter into a Private Developer Agreement with the Council, which could include the UDA funding any required infrastructure upgrades beyond its development, with these upgrades being delivered by the Council. Another alternative would be for

the government to provide an infrastructure grant to the Council to provide infrastructure to support the development.

The Council also opposes Proposal 124 requiring a territorial authority to amend its bylaws. A significant amount of effort and public consultation goes into the creation of the bylaws, and the UDA may be unaware of the background or the reasons for particular aspects of the bylaws, and changing these could result in significant negative consequences, for example non-compliance with discharge consents held by the Council, increased public health risk, increased safety risks and poor long term outcomes for infrastructure (e.g. difficult to maintain and operate). The Council requests that this proposal is not pursued. If the proposal is carried through to the legislation, the exclusions should be extended to include water, wastewater and stormwater bylaws.

#### Proposals: Infrastructure – Performance requirements and standards (Proposal 125 – 126)

While the Council supports the requirement for the UDA to consult and collaborate with the territorial authority about infrastructure, it is of the strong view that this does not go far enough, as this could result in the UDA not incorporating any of the feedback provided by the Council, and could result in substandard infrastructure outcomes over which the Council has no control. However, this concern is addressed if the wording changes suggested to Proposal 122 are adopted.

The Council agrees with the intent of Proposal 126 but is of the view that it does not go far enough. This concern is addressed if the wording changes suggested to Proposal 122 are adopted.

#### Proposals: Infrastructure – Winding-up the development project (Proposal 127 – 131)

The Council can see no advantage in the UDA passing on debt associated with assets being vested in the Council. The cost of providing local infrastructure within the development area should be recovered by the UDA through the sale of properties within the development, then the infrastructure vested in the Council at no cost to the Council. Otherwise the financial burden of a failed or poorly performing development could be carried by the Council rather than the UDA. Should the receiving organization not agree to receive the assets, severe governance and institutional challenges could arise. The Council requests Proposal 127 is deleted.

Nor can the Council can see no advantage in the UDA being responsible for ongoing operations and maintenance of infrastructure, and this could result in variable levels of service across the city, potential regulatory non-compliance (e.g. with the Drinking Water Standards for NZ) and increased costs through lack of economy of scale.

#### Proposals: Funding and financing – General matters (Proposal 132 – 135)

There could be significant pre-development costs associated with initiating and establishing a project. An urban development fund for scoping and assessing initial projects may be beneficial. As the UDA allows for efficiency in process and collection of funding, are these cost saving reduction passed on to the public or part of the developers profit?

The key proposals in terms of a UDA's ability to raise revenue, transact land, receive grants, recover costs, and borrow are quite extensive but need to be tested against the minimum scale of investment and development required to justify the proposed infrastructure and development levies. The availability and cost of such debt and equity funding may be prohibitive in the absence of Crown and/or territorial authorities' guarantees. The Council suggests that each project's financial viability, including any required Crown or territorial authority guarantee or similar support, should be detailed and assessed during the Project Establishment phase, while both parties have effective veto rights, not during development planning.

Further, the timing of revenue receipts can differ significantly between rates charges (which are collected immediately after being set) and development contributions (which are only collected if and when future development actually happens). The potentially longer time-frame for cost-recovery through the latter may be incompatible with the essentially temporary nature of UDA vehicles.

The Discussion Document implicitly assumes that the proposal, assessment, and development of potential projects through to the completion of the Establishment phase (i.e. the empowerment of the UDA through an Order in Council) will be part of the normal business activity of the Crown and relevant territorial authority. Although not an unreasonable assumption, there is a risk that future projects may be delayed or rejected through inadequate 'BAU' capacity unless addressed jointly in the annual budgets of the territorial authority and relevant Crown agencies.

It is being proposed to use potentially both development contributions and targeted infrastructure charges to recover the cost of infrastructure development. The Project Establishment phase could in principle define the appropriate balance between these two mechanisms, but an unhelpful lack of clarity would remain until actual charges are calculated in the Project Development stage.

The collection of development contributions under Part 8 (sub-part 5) of the Local Government Act 2002, using a Development Contributions Policy is relatively complex and labour-intensive to maintain. The UDA would require a new and preferably more straightforward mechanism to improve efficiency, but any reduction in the complexity of the calculation and/or the objection rights of the developer may serve to discount the potential sale price of UDA land in a way that simply off-sets the development contribution revenue stream. Consideration should be given to eliminating development contributions as a source of funding for the UDA, on the grounds that most land in the UDA area is likely to be owned by the UDA at some point, and the relationship between sales price and DC charges is sufficiently close that the existence of a development contribution mechanism is unlikely to deliver significant additional infrastructure funding.

#### Proposals: Funding and financing – Collecting targeted infrastructure charges (Proposal 136 – 139)

It is assumed that these charges will be collected under the Local Government (Rating) Act 2002 and will therefore affect the territorial authority's benchmark ratios monitored by the Crown. However, the Discussion Document indicates that they will not be specified until the Development Plan stage, meaning that this portion of rates revenue is controlled by the UDA rather than the territorial authority. However, it is unclear whether these charges will be payable only within the UDA area (Proposal 133) or also by some properties outside this area (page 87). The Council suggests that these targeted infrastructure charges should be explicitly excluded from territorial authority rates when calculating Crown benchmark ratios.

It is unclear whether these charges should be in addition to all territorial authority rates for which properties within the UDA area are normally liable, not just the General Rates (Proposal 137). The Council suggests that properties within the UDA area should remain liable for all of the territorial authority's normal rates (including any Targeted Rates), unless infrastructure changes by the UDA make them no longer liable under the territorial authority's existing Funding Impact Statement.

The intention to apply the new charges "for the lifetime of the new infrastructure assets" (Proposal 137) implies a timeframe significantly longer than the likely life of the UDA. The implicit assumption is that the new assets will at some point be vested to the territorial authority along with potentially significant targeted charges revenue and UDA debt. This implicit assumption should be made more explicit.

The extent to which the territorial authority is projected to accept transfer of debt liabilities and targeted charges revenue upon project completion should be stipulated at the Project Establishment phase (i.e. in the Order in Council) to allow the TA to still veto a proposal.

#### Proposals: Funding and financing – Collecting targeted infrastructure charges (Proposal 136 – 139)

The requirement for the territorial authority to part-fund any UDA infrastructure that provides benefit to areas outside the UDA is reasonable, provided that it does not result in uncontrolled and/or undesirable liabilities to ratepayers outside the UDA area – in particular, the level of service provided by UDA investment should be consistent with the level that the territorial authority and its ratepayers are prepared to pay for.

It is unclear why properties within the UDA area should not be liable for territorial authority development contributions in the same way as any other property, provided that the catchments applied to a Development Contribution Policy are adequate (e.g. territorial authority determines that flood protection investment is of District-wide benefit); and conversely, if the UDA proposal includes independent local assets (e.g. sewage treatment and disposal) then the area should be a catchment within the Development contribution Policy which is not liable for (e.g. sewage-related) development contributions.

Further, the Local Government Act contains specific provision relating to Developer Agreements where a large development is to include significant levels of infrastructure (including where such investment affects areas outside the development boundary). It seems preferable to rely on this existing legislation rather than creating potentially confusing and/or contentious new legislation – the degree of collaborative planning between the territorial authority and the UDA would be similar in either case.

## Section 10: Other matters

### A. Criteria or thresholds for selecting urban development projects

The Council recommends a ‘principle-based criteria in the proposed legislation that is based on its purpose and the definition of urban development’. The key principles should be identified by the territorial authorities and a case made for the project. Each project should be evaluated on a case by case basis, and recognise the effect of the urban development impact within local, regional and national context. The criteria should give direction on, as a minimum, anticipated urban design, economic, housing, community/neighbourhood, sustainability, commercial and financial outcomes.

### B. The role of territorial authorities

With recourse to negotiation and mediation it is likely that an urban development project proposal could reach a consensus where a veto power would have to be used. A territorial authority, in undertaking to fairly and inclusively represent the community, would seek to agree urban development projects that strike the right balance between enabling expedient development and aligning with the views of the community.

Prescribing the circumstances in which territorial authorities may negotiate will limit the extent to which the views of the community may be taken into account. Given the proposal to transfer much of the decision making power to UDAs, it is critical that territorial authorities retain the ability to consider all aspects of a proposed urban development project before this transfer occurs.

All projects should give the territorial authority a veto right in order for it to understand its local context.

Central government should not be able to establish a development project if it cannot reach agreement with the relevant territorial authority.

#### D. Market provision of infrastructure

There could be instances, particularly for large scale development project, where it is more efficient for the private sector to fund and provide the infrastructure (including upgrades) to service the development. This can be examined on a case by case basis having particular regard to any benefits to the local authority in terms of expedited development, cost savings and degree of integration with committed infrastructure programs.

#### E. The role of the Overseas Investment Act 2005

If the concern is related to compliance cost for overseas person to develop land, shouldn't the overseas person be better encouraged through this to invest in the UDA directly rather than through the purchase of land? Can conditions on the sale of land to an overseas person be that it is developed and on-sold?

The establishment of UDA's does not address the incentive for overseas investors to speculate in the property market. A review of the Overseas Investment Act should not be done through the discussion paper on UDA's.