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Urban Development Authorities proposal

1. Purpose

To brief the Environment Committee on the Government's Urban Development Authorities Discussion Document.

2. Background

In February, the Government released a discussion document on Urban Development Authorities (UDAs). New legislation is proposed with the intention of enabling nationally or locally significant development projects to be built more quickly.

Minister for Building and Construction, Hon Dr Nick Smith, notes in the document's foreword that historically the growth of New Zealand cities has occurred largely by expansion of the urban footprint into surrounding countryside and the current development framework and rules reflect this. However, like many developed countries, New Zealand is entering a new phase of urban development involving substantial redevelopment of existing urban areas.

The discussion document proposes 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 initiative is part of the Government's programme to grow the economy and improve housing supply and affordability.

3. UDA proposal

3.1 Basic concept

The proposal is designed to streamline urban development at a neighbourhood scale. It can apply to greenfield areas at or beyond the edge of any existing built-up area. It is not limited to housing and can include commercial and/or industrial development.

The basic idea is that an urban development project would be established, and as part of this process the UDA would be created. The UDA must be majority

publicly controlled. Regional councils or regional council CCOs are not listed as the ‘type’ of entity that is eligible to become a UDA¹.

3.2 Proposed process

The proposal describes a two-part process in which an urban development project is established (step 1), and a development plan is then prepared (step 2). Territorial authority agreement is required before an urban development project can be established, essentially giving territorial authorities a right of veto. Either central government or territorial authorities can initiate the process. The party who would undertake the initial assessment of a potential development project has been left open in the proposal at this stage.

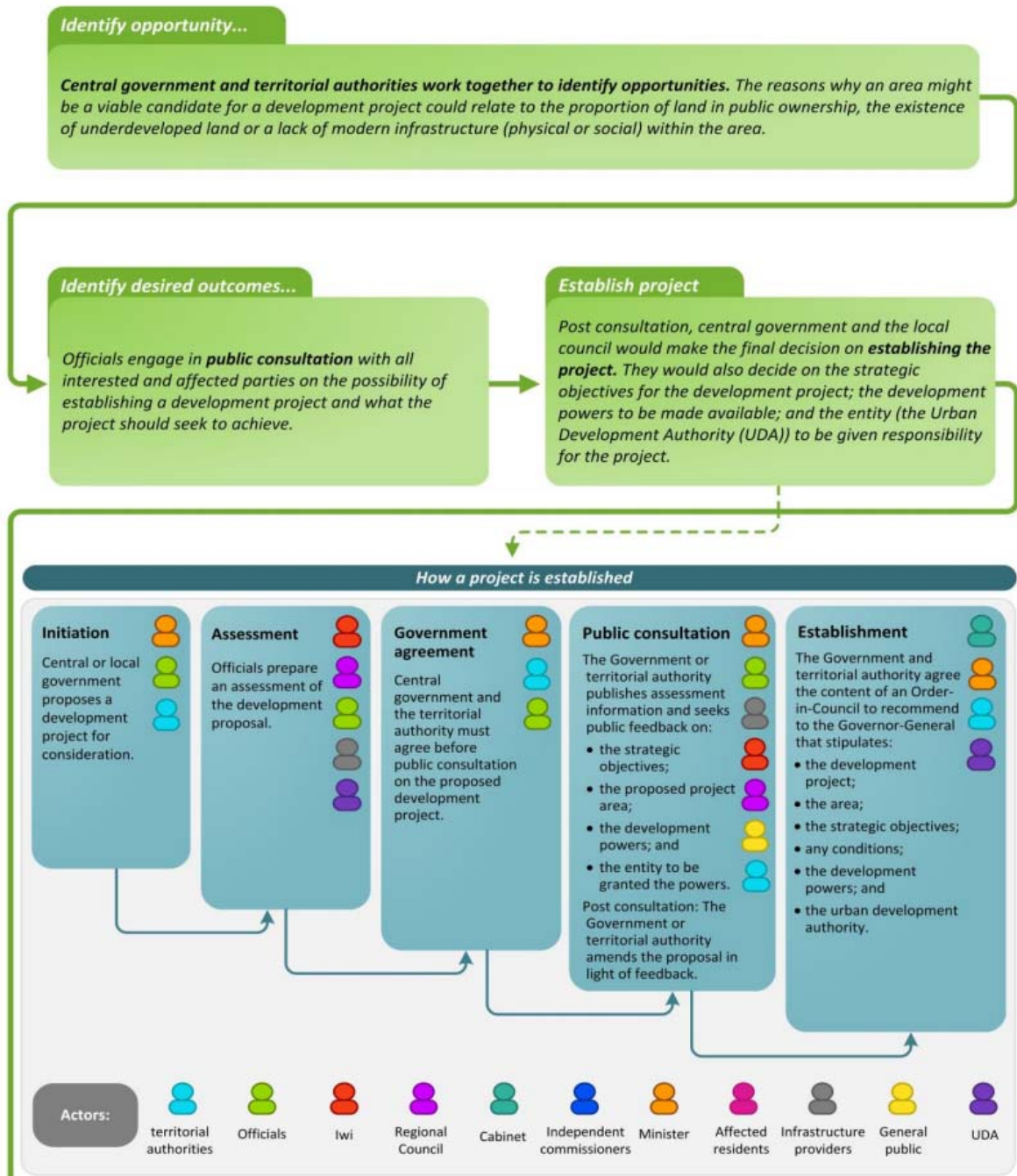
If the project is initiated by a territorial authority, either its officials or the officials of a council controlled organisation may manage this process. If central government initiates a project, it is proposed that an independent panel could be formed to undertake the assessments and make recommendations to the Government, or it is suggested that (once established) a UDA that is granted development powers for several development projects may have the necessary expertise to take on this role. The Government is inviting feedback on this aspect of the proposal.

It is proposed that regional councils are consulted when the development project is being established, and then during the creation of the development plan. However there will be no requirement to obtain the prior agreement of the relevant regional council and they will not have a right of veto. Regional councils will have to have regard to development plans when reviewing their own RPS and regional plans.

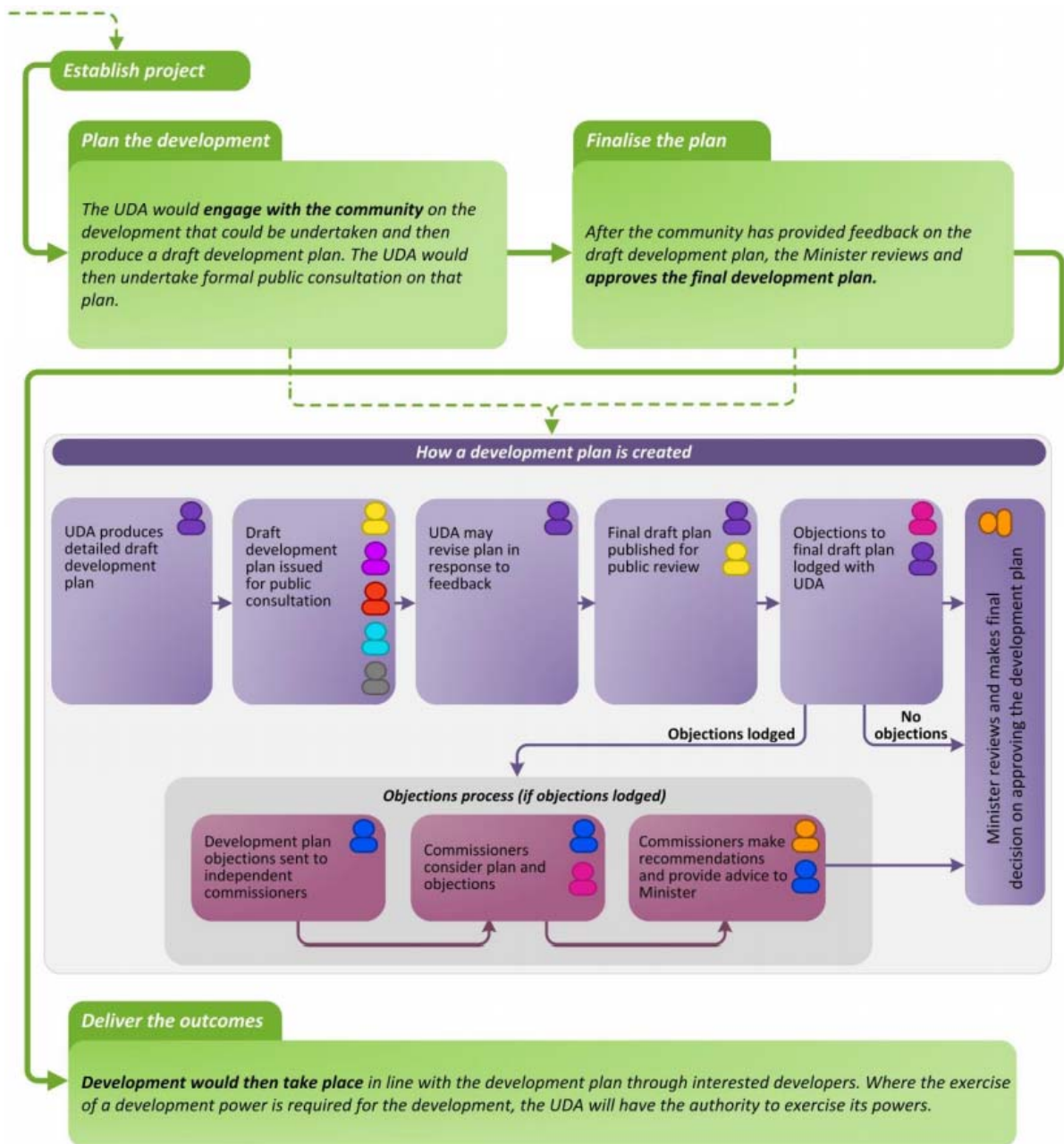
The two-part process is summarised in the flow charts on the next two pages.

¹ Page 38 of the discussion document provides a list of existing entity ‘types’ that are eligible to become a UDA. These are (a) core Crown departments, agencies or departmental agencies; (b) statutory Crown entities; (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.

Process of developing an urban development project



Process of preparing a development plan



3.3 UDA powers

The powers of the UDA would be project specific. Once the development project and UDA had been established, the UDA would have to prepare a development plan which, once approved, it would then deliver.

The powers granted to the UDA would vary depending on the urban development project. These include powers in relation to 'land assembly', compulsory acquisition and reserves.

Planning and consenting powers

Of most relevance to regional councils are the planning and consenting powers that can be afforded to a UDA in relation to regional matters:

- (a) The development plan can override the RPS and regional plans;
- (b) The UDA can have the planning/consenting powers of the regional council;
- (c) In some cases the UDA can take on compliance and enforcement functions.

When planning powers are granted to a UDA, the development plan must (amongst other things) identify, for the project, which provisions in an RPS and regional plan will continue to apply and incorporate them by reference into the development plan. The activity statuses available for development rules applying to the development project are limited to permitted, controlled, restricted discretionary and prohibited. The development plan must also:

- (a) Give effect to any national policy statements/national environmental standards;
- (b) Adopt the same protection for significant historic heritage sites usually provided for through regional plans; and
- (c) Have regard to the relevant RPS and regional plans.

The proposal includes separate notification and hearing processes for activities which are and are not included in the development plan.

For activities included in the development plan the process is geared towards non-notification although limited notification will apply if the activity would have required the regional council to be the consent authority and is not an activity for which consent must be granted. If notification is required the decision maker must not hold public hearings and there is no merits appeal.

For activities not included in the development plan, if notification is required the decision maker must not hold public hearings but merits appeals to the Environment Court remain.

Regardless of whether planning, land use and consenting powers are afforded to the UDA or retained by the local authorities, the decision-making considerations are 're-prioritised' (much like the Housing Accords and Special Housing Areas Act 2013) with the strategic objectives of the development project being afforded the most weight, followed by Part 2 of the Resource Management Act 1991 (RMA), and then the other RMA considerations.

Infrastructure and funding powers

The proposal contemplates the availability of wide ranging powers to stop, move, build, create, extend and/or alter infrastructure including trunk infrastructure and land transport related infrastructure.

In relation to land transport matters:

- (a) A UDA 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).

(b) A UDA may be given the power to suspend part of or recommend changes to the Regional Land Transport Plan (RLTP) for the development project (where the development project may be compromised or the RLTP ceases to be relevant).

(c) RLTPs and other local government statutory planning documents must not be inconsistent with the strategic objectives of development projects (however there is no requirement that development projects are specifically identified).

When a development project is completed, decisions will need to be made about the distribution of the UDA's assets, liabilities, rights, designations or revenue streams. Regional councils are identified as a possible receiving organisation. If there is no debt attached to the assets they may vest at no cost in the receiving organisation, but otherwise the receiving organisation's prior agreement will be required.

The funding and financing powers that may be granted to a UDA include powers to levy targeted infrastructure charges on property owners within the development project area, direct 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, and determine and levy project specific development contributions.

There are provisions dealing with cross border funding issues between the UDA and the relevant territorial authority (e.g. where facilities would benefit more than just the development project or vice versa).

3.4 Māori interests

Provisions are made for Māori interests in the proposal. For example:

(a) There is a requirement to identify Māori interests in land when assessing a possible development project. Owners of land held under the Te Ture Whenua Māori Act 1993 and post-governance settlement entities with land or capital will have an opportunity to develop land as a partner in the project, and can choose whether their land is included in the development project before it is established.

(b) It will be a compulsory strategic objective of every development project to maintain the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga.

(c) The development plan must (amongst other things) identify Māori cultural interests in the project area and how these will be catered for, not override planning provisions to the extent they implement Treaty settlement legislation, and adopt the same level of protection for sites of significance for mana whenua usually provided through district and regional plans.

4. Comments

The concept of a special purpose entity to accelerate and drive urban change is accepted and used extensively in overseas jurisdictions, often with considerable success. There is likely to be just as relevant within a New Zealand context.

From the perspective of GWRC it is important however that the framework provides adequate protection of the environment, has sufficient community input and doesn't undermine key regional plans and programmes.

A draft GWRC submission on the UDA proposal will be developed and discussed with councillors in early May. GWRC's final submission will be submitted to MBIE on or before the deadline of May 19.

As part of developing a submission, GWRC will communicate with the rest of the regional council sector to ensure a cohesive approach.

5. The decision-making process and significance

No decision is being sought in this report.

5.1 Engagement

In accordance with the significance and engagement policy, no engagement on this matter is required.

6. Recommendations

That the Committee:

1. **Receives** the report.
2. **Notes** the content of the report.

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