



BRIEFING

High Level UDA Information Pack for Ministers

Date:	24 April 2018	Priority:	High
Security classification:	In Confidence	Tracking number:	3041 17-18

Action sought		
	Action sought	Deadline
Hon Phil Twyford Minister of Housing and Urban Development	<p>Forward this briefing to Ministers: Hon Kelvin Davis, Hon Andrew Little, Hon David Parker, Hon Nanaia Mahuta, Hon Shane Jones and Hon Eugenie Sage.</p> <p>Note MBIE officials have offered to meet with Ministers to discuss the UDA proposal.</p>	24 April 2018

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Di Anorpong	Manager, Construction and Housing Policy	04 901 8743	s 9(2)(a)	
Andre Anderson	Principal Advisor, Housing Markets	04 474 2815	s 9(2)(a)	✓
Sally Whineray	Graduate Policy Advisor	04 901 6191		

The following departments/agencies have been consulted
Ministry for the Environment, Ministry of Justice, Department of Conservation, Department of Internal Affairs, Ministry of Social Development, New Zealand Transport Authority, Te Puni Kōkiri.

- Minister's office to complete:**
- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments



BRIEFING

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Purpose

This briefing provides a high level information pack on the urban development authority (UDA) proposal for you to forward to other Ministers, as you requested on 9 April.

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

- a **Forward** this briefing to Ministers: Hon Kelvin Davis, Hon Andrew Little, Hon David Parker, Hon Nanaia Mahuta, Hon Shane Jones and Hon Eugenie Sage.

Agree / Disagree

- b **Note** MBIE officials have offered to meet with Ministers to discuss the UDA proposal.

Noted

Di Anorpong
Manager, Construction and Housing Policy
Housing and Urban Branch, MBIE

23/4/18
...../...../.....

Hon Phil Twyford
**Minister of Housing and Urban
Development**

...../...../.....

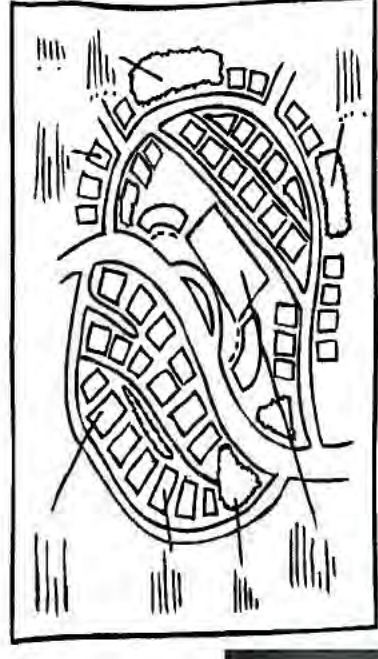
The national urban development authority: summary of proposals

April 2018



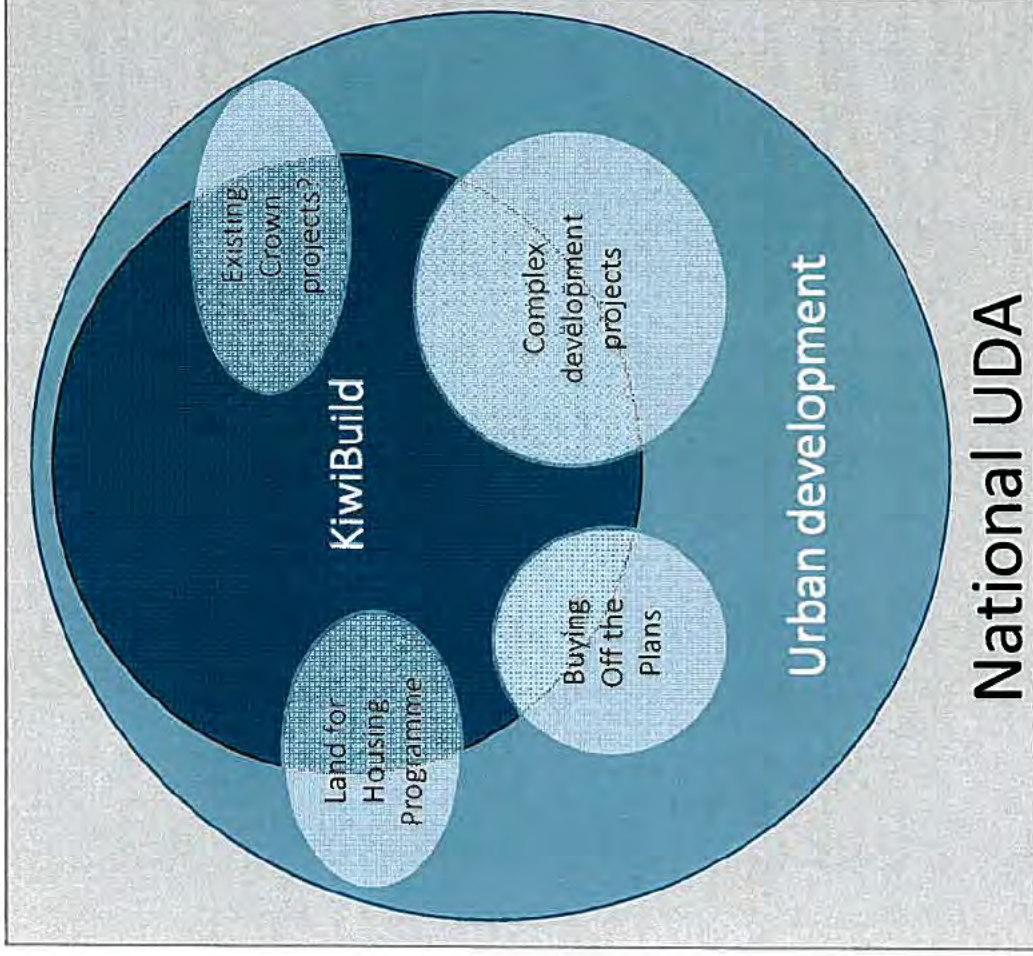
Housing Commission – the national UDA

- Cabinet has committed to establishing the Housing Commission as a **national urban development authority** (“UDA”).
 - “The Housing Commission will be able to play the key strategic role of identifying, prioritising and coordinating the various development projects required to deliver our Government’s commitment to KiwiBuild and to realise our other commitments, including to public transport and light rail.” (UDA Cabinet paper, Dec 2017).
- The name will change.
 - The new entity will lead more than just housing developments so throughout the presentation we will refer to the entity as the national UDA.



What is the national UDA and what will it do?

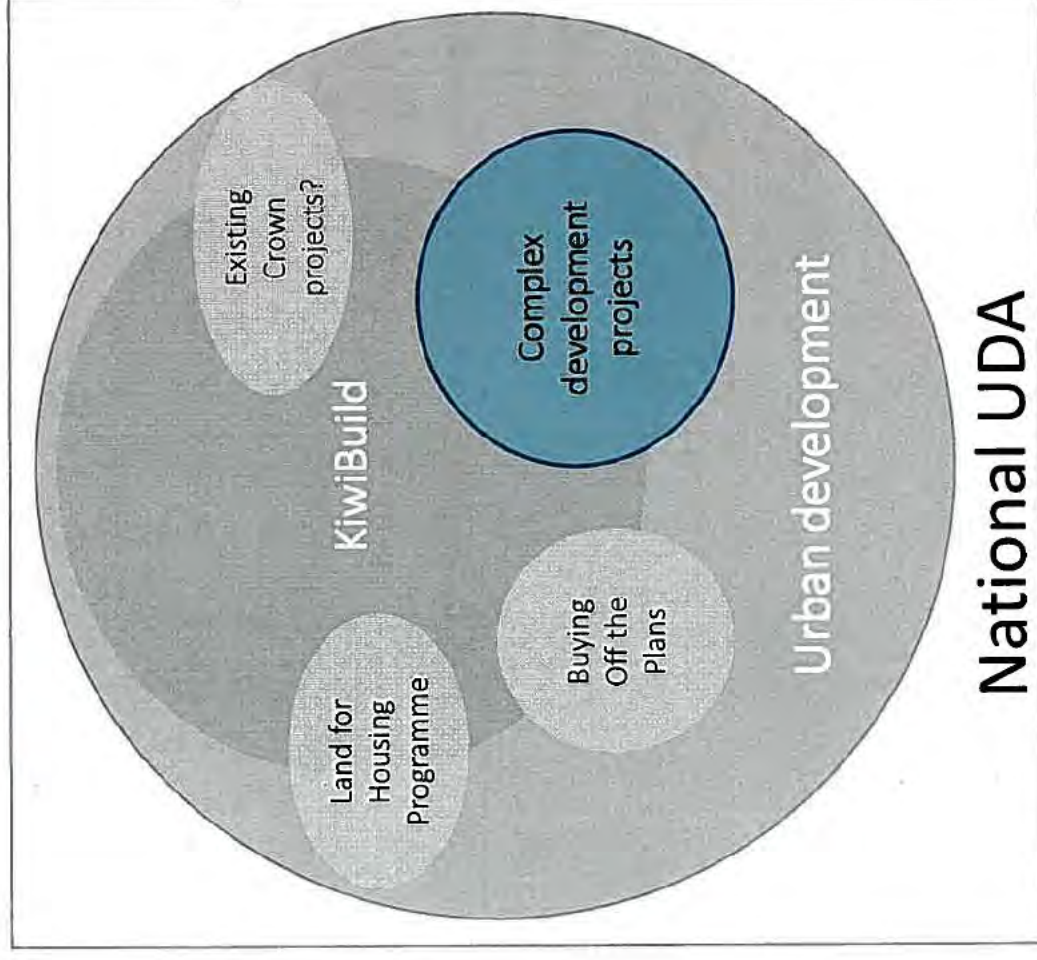
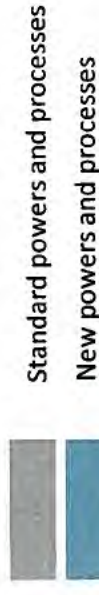
- The national UDA will be the Government's lead developer.
- It will deliver:
 - KiwiBuild
 - Large-scale, complex urban development projects
- Most projects will include urban development outcomes that go beyond KiwiBuild such as:
 - commercial and industrial buildings
 - other new homes (including public housing)
 - transport solutions
 - parks and amenities



What powers does it need?

- For many development projects, the national UDA can use standard development and planning powers.
- For complex development projects, the UDA needs access to more enabling development powers and processes.
- Cabinet has agreed in principle to enact the following types of powers for these projects:
 - land assembly and reserves;
 - land use planning and consenting;
 - infrastructure; and
 - funding.

(UDA Cabinet paper, Dec 2017).



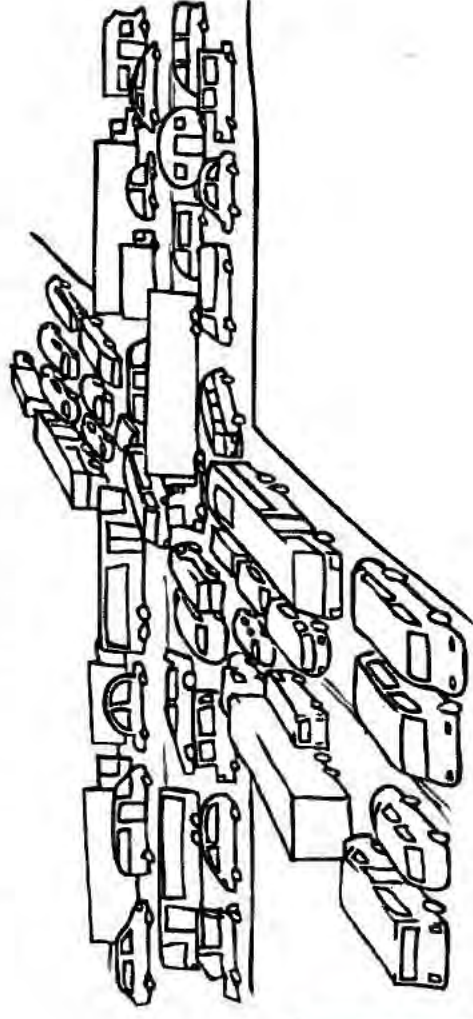
For complex development projects:

Cabinet has agreed that the legislation enact a new framework, process and development powers that:

- support high quality urban development;
- provide greater coordination, certainty and speed; and
- are capable of supporting a wide range of development projects.

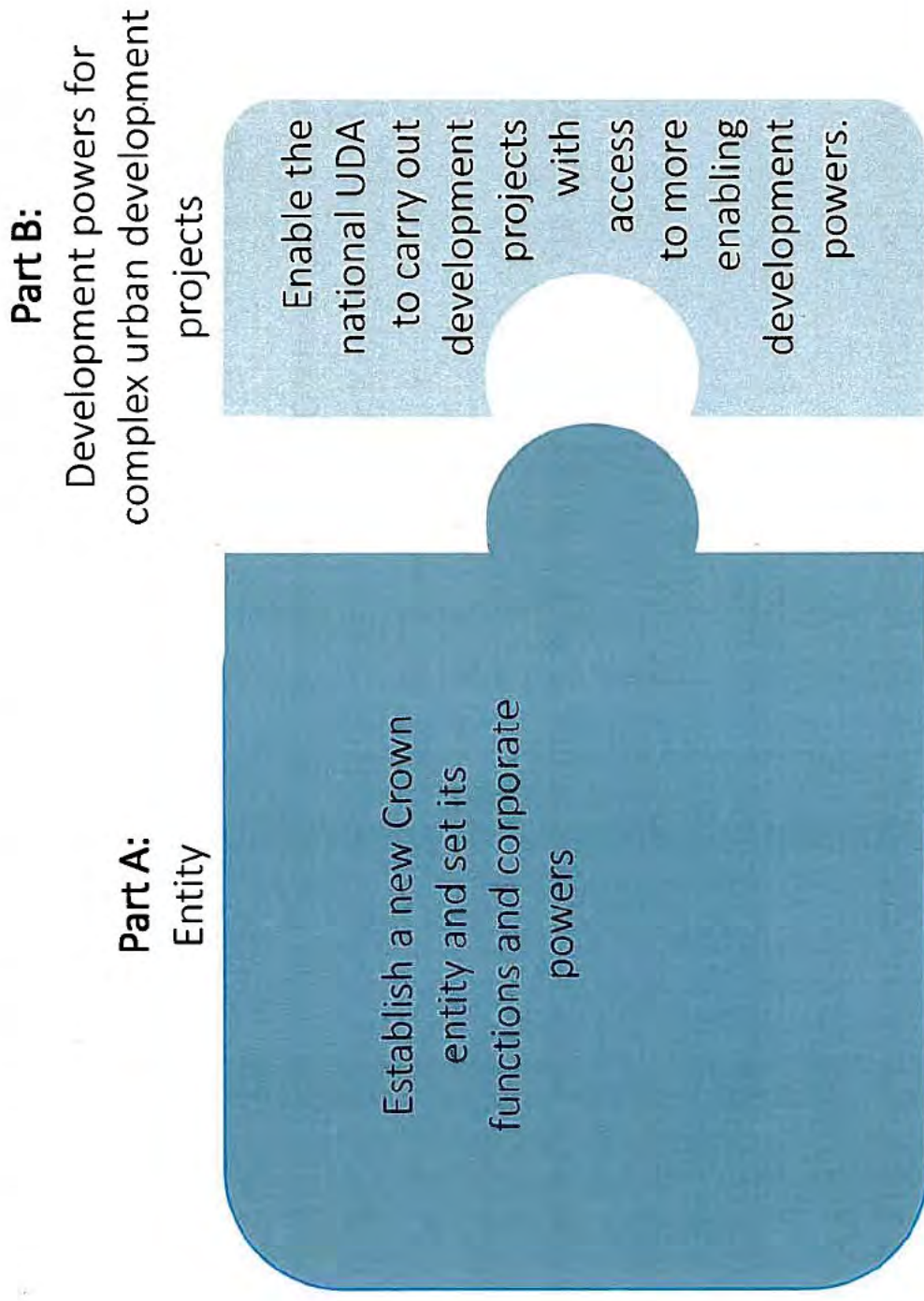
(UDA Cabinet paper, Dec 2017)

Overall: the aim is to provide more enabling development powers for specific projects that have the potential to deliver significant urban development at pace.



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So there will be two parts to the UDA legislation



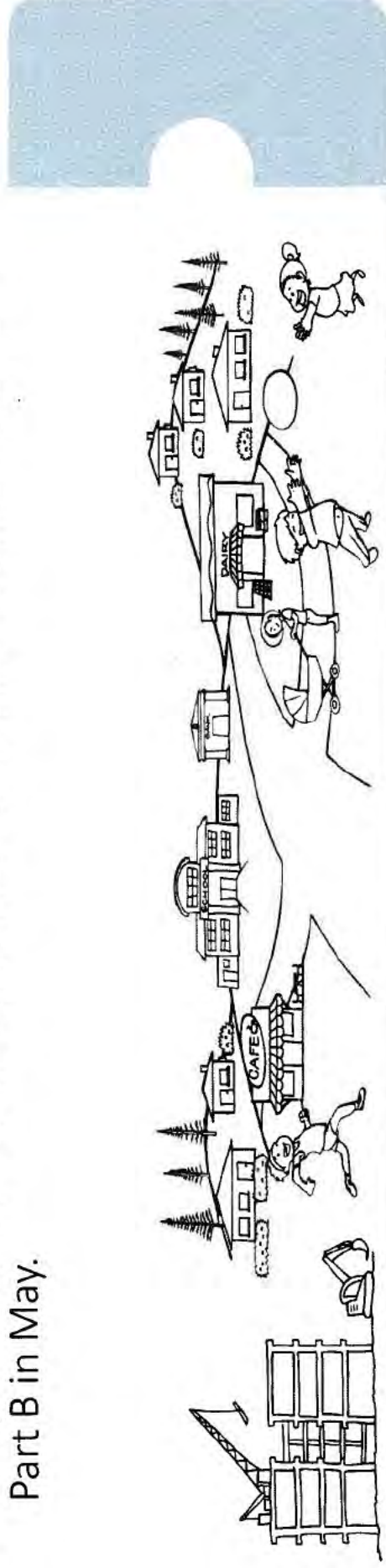
Legislation Part A: Establishing the UDA

- The State Services Commission (SSC) is leading the work on establishing the national UDA
- It is still to be decided whether the national UDA will be built on an existing Crown entity (like NZTA, HLC, HNZ), or become a new agency altogether
- Some existing programmes may be incorporated into the national UDA, like the Land for Housing programme and KiwiBuild Unit.



Legislation Part B: Project-based powers and processes

- Applies only to large scale, complex urban development projects
 - a **development project** is an urban development for a selected project area
 - the **project area** is the discrete geographic area or areas in which a single development project is located
- A project area will not be an entire region or city...
- ...but the area could be big – for example the area between Papakura and Pukekohe is approximately 3,000 ha
- The plan is to seek the first of a series of detailed Cabinet decisions for Part B in May.

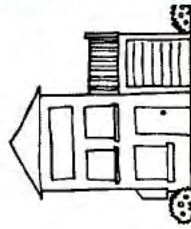


Project-based legislation responds to four key policy problems:



What outcomes will the national UDA achieve?

More control over the location, timing and quality of urban development



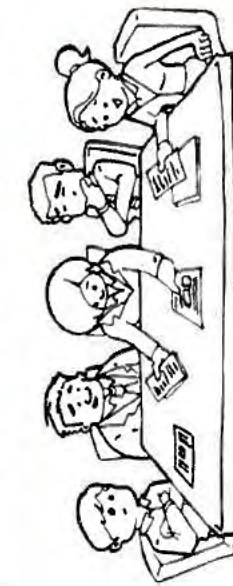
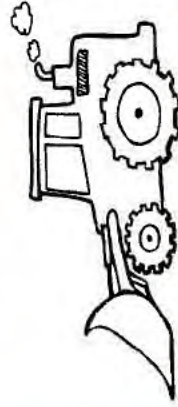
Increased access to private sector investment in urban development

Better integration between land use and transport systems

Increased resilience of communities and infrastructure to natural hazards

Maintaining a construction pipeline to support industry capacity and capability

Better return on public sector infrastructure investment



Upholding Te Ture Whenua Māori Act and honouring the Treaty and settlements

Increased planning certainty and incentives for developers to participate in large-scale/complex urban development

Supporting Māori aspirations and priorities for urban development

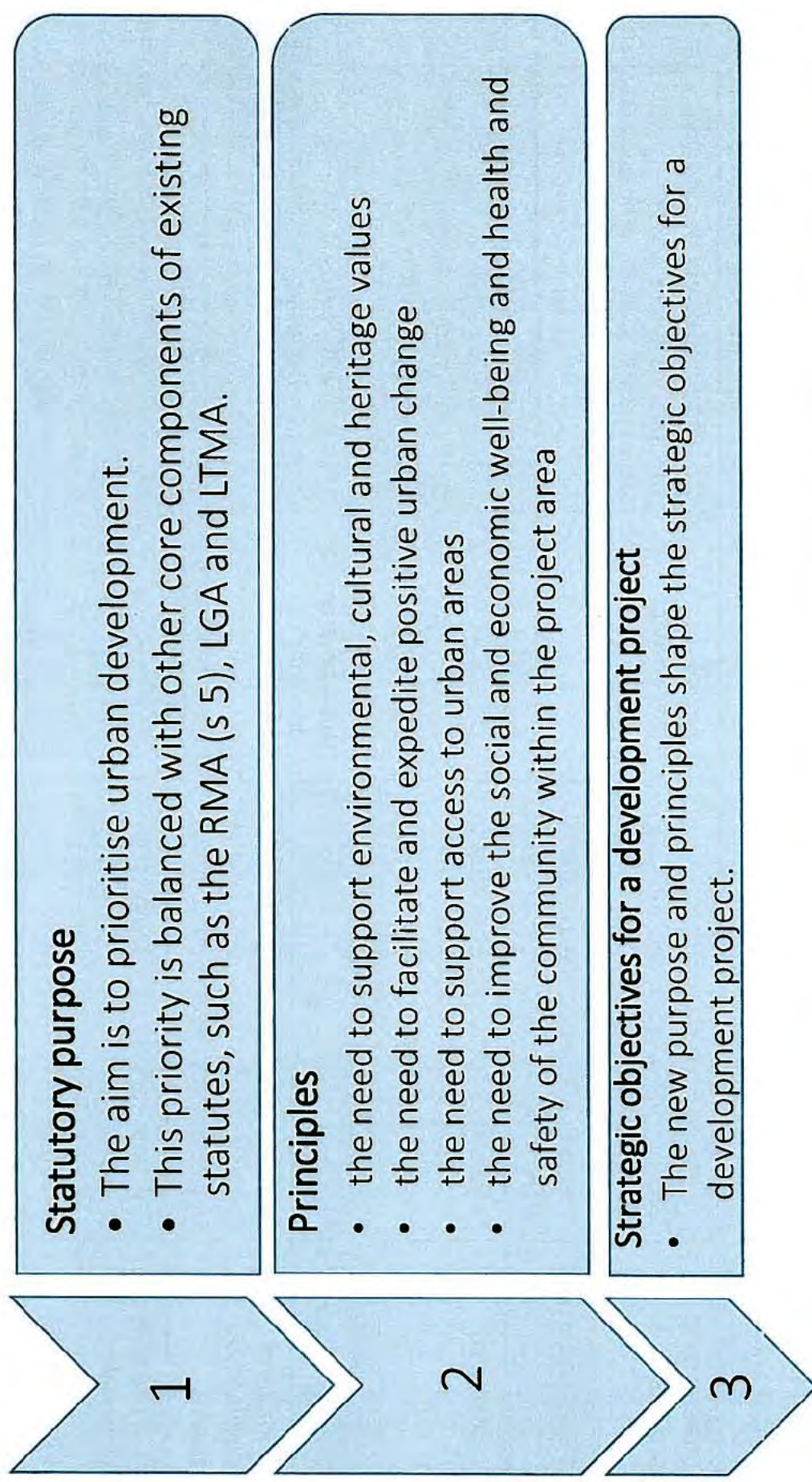
Improved social, cultural and natural environment outcomes



Faster economic transformation through more effective large-scale urban development



Decision making framework for the UDA



Framework for project based legislation

The Government retains the power to choose if and when development powers are available for projects. The proposed legislation can be adapted to a wide range of different circumstances as required.

Development projects	Nationally or locally significant development projects that are complex or strategically important.
Geographic scope	Development powers are available in urban areas throughout New Zealand.
Type of area	Development powers are available in any urban area, including greenfield areas at the urban fringe.
Lifespan of the legislation	Enduring legislative tool-kit.
Duration of development powers	Once allocated, development powers are available for the duration of that development project, but not after.
Scope of public consultation	Two opportunities for the public to submit.
Objections	Hearing for objections.

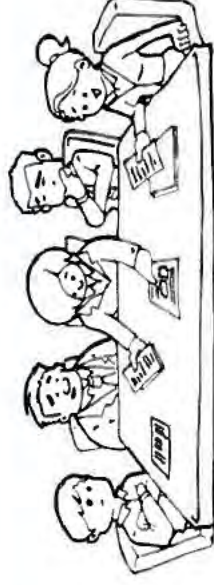
Type of development project	Development powers are available to support different types of development projects, including commercial developments, without any need for a housing component.
Type of developer	The benefit of development powers is available to both private sector developers (including Maori developers) and public entities involved in a UDA project.
Local government decisions	Development powers are available that can change local government planning decisions in the development project area.
Local government input	The UDA must seek the agreement of the relevant territorial authority/s to establish the project, but the Government can still choose to proceed if desired.

This matter is still under discussion



Process to establish a UDA project - overview

- Part 1: Establishment phase



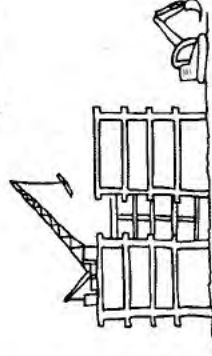
- Part 2: Preparing the development plan



- Part 3: Hearing for objections

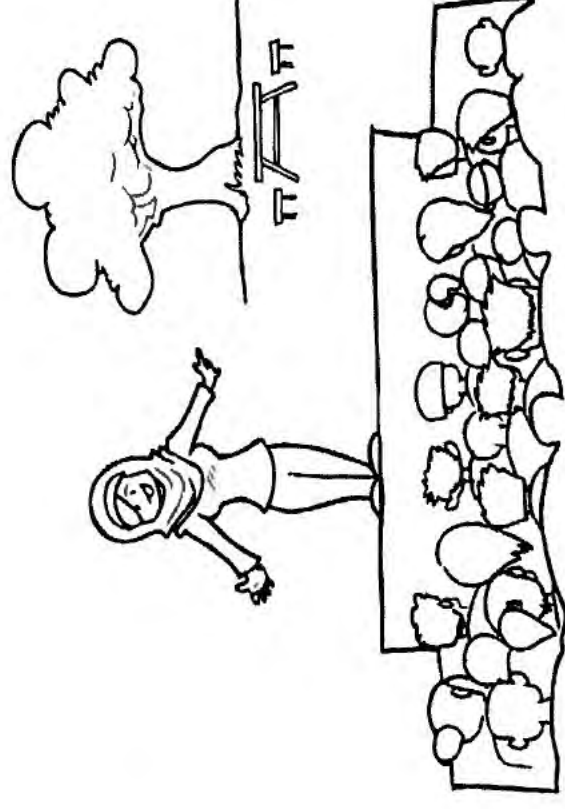


- Part 4: Implementation

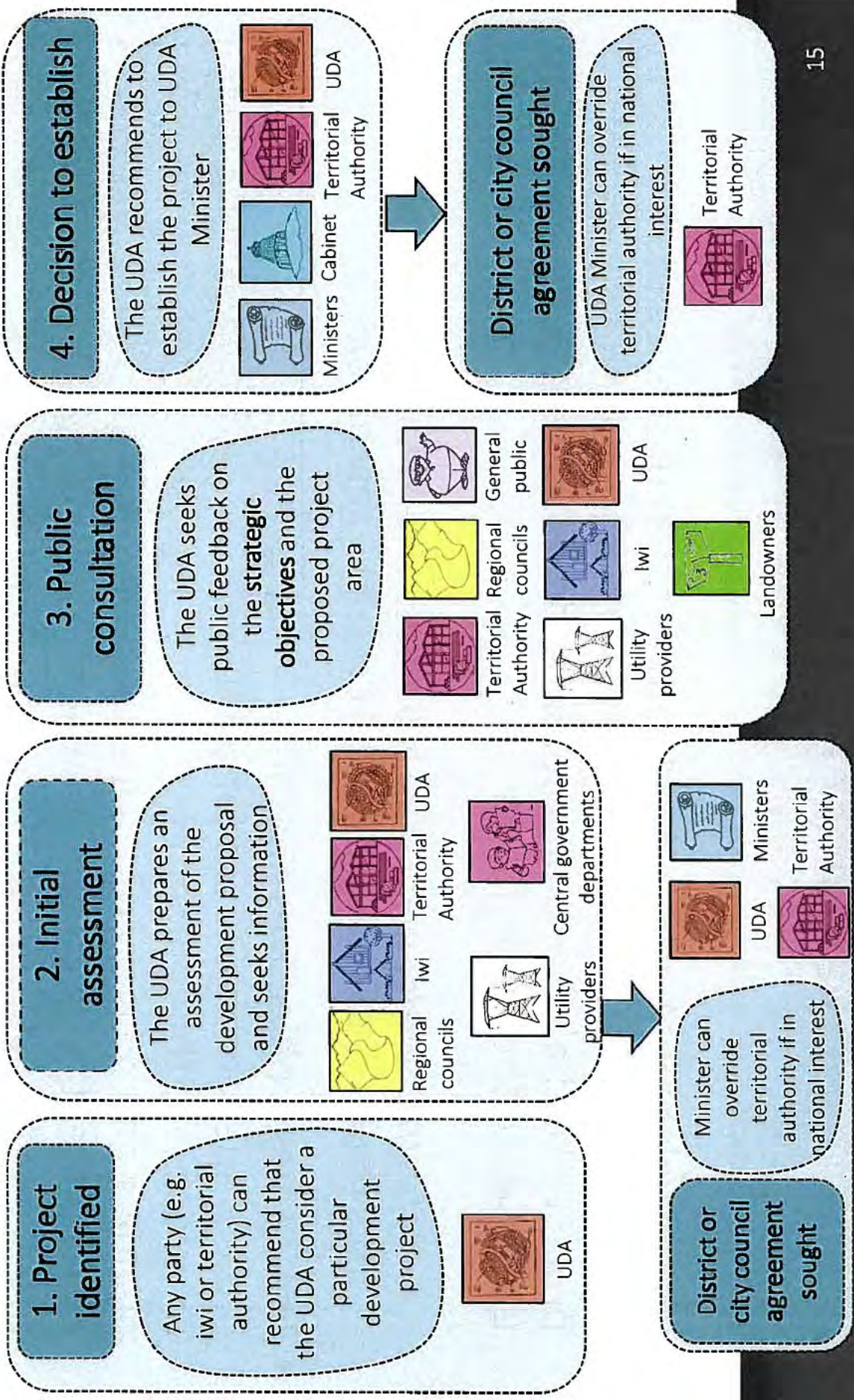


Territorial authority involvement is essential

- Territorial authority (ie city or regional council) involvement is particularly important to development projects for three reasons:
 - Democratic accountability
 - Land ownership
 - Infrastructure
- Discussion with territorial authorities about their involvement in the UDA (eg governance arrangements) will occur from the outset of the establishment phase process

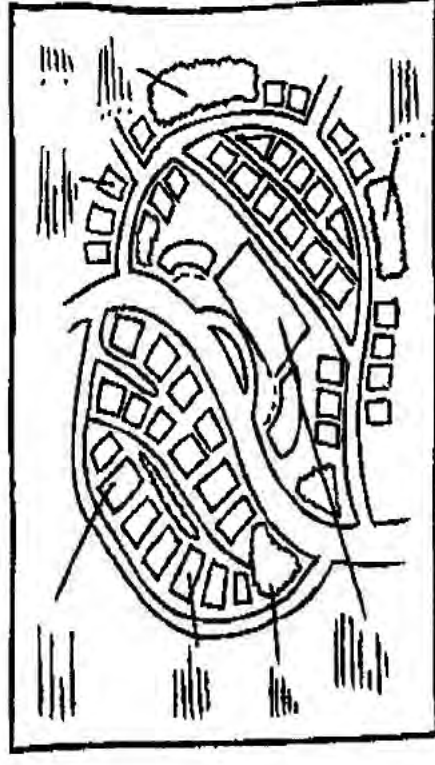


Part 1: Establishment phase



What is the development plan and the strategic objectives?

- The **development plan** is the document that describes the programme of urban development for a particular development project and that shows how relevant development powers will be exercised in the project area.
 - *Note: the development plan is broader than a land use planning document under the RMA (e.g. it can levy new rates).*
- The **strategic objectives** are the project-specific objectives for urban development that guide the planning and delivery of a particular development project, agreed when the project is established.



Part 2: Preparing the development plan

5. Development plan prepared

The UDA produces detailed draft development plan, collaborating with other partners



UDA

6. Public consultation

Draft development plan issued for public consultation



General public



Iwi



Territorial Authority



Utility providers



Regional councils



Landowners

7. Plan published

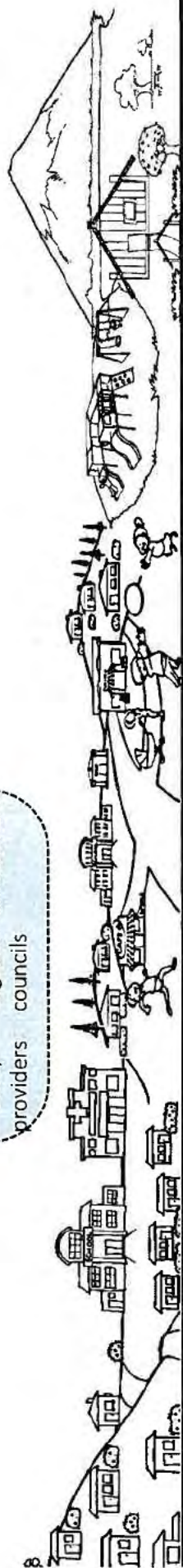
Final draft plan published for public review



General public



UDA



Part 3: Hearing for objections

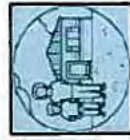
Awaiting Ministers' decision

8. Objections

Objections to the draft development plan are lodged (if any)



UDA



Affected person

a) Development plan objections sent to Independent commissioners



Independent Commissioners

b) Commissioners consider plans and objections



Independent Commissioners



Affected person

c) Commissioners make recommendations and provide advice to Minister



Independent Commissioners



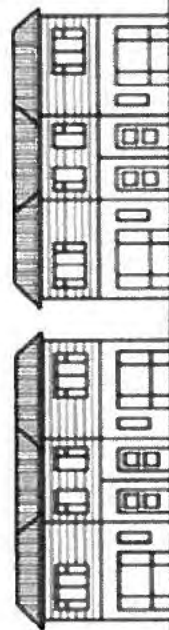
Minister

9. Development plan approved

Minister responsible for the national UDA and Minister for Crown/ Māori Relations reviews and makes final decision on approving the development plan

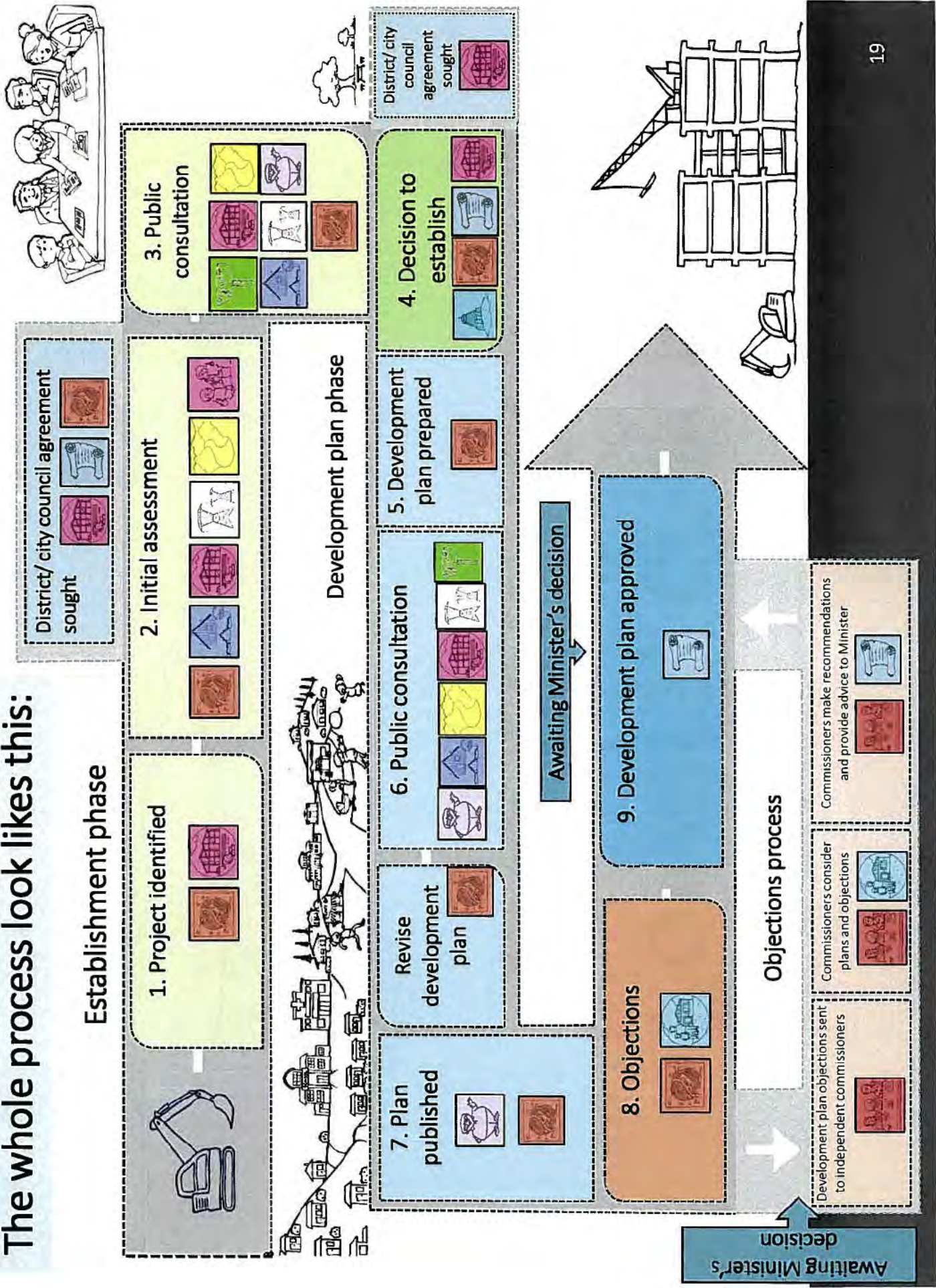


Minister

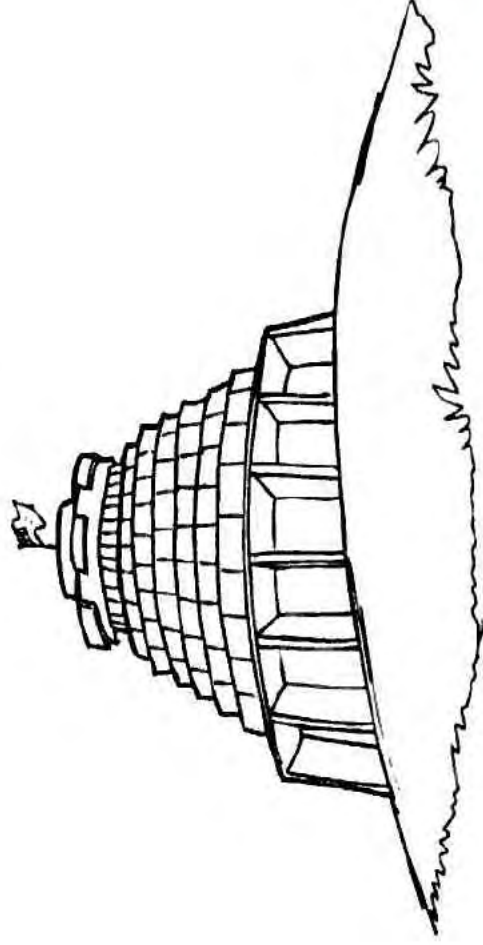


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The whole process look likes this:



Powers, checks and balances



Land assembly & reserves powers, checks and balances

Land assembly & reserves powers	Checks and balances
<p>The power to require Crown agencies to contribute the land they own (public land) in the project area</p>	<p>Consultation required with Minister responsible for the Crown entity whose land is being acquired</p>
<p>The right to ask for the Crown to:</p> <ul style="list-style-type: none"> • set apart public land for development purposes • acquire private land if necessary • Risks of acquiring Māori land and land returned through Treaty settlements are being considered by CMR and TPK officials 	<p>Subject to usual checks and balances of the Public Works Act.</p> <ul style="list-style-type: none"> • i.e. approval of Minister for Land Information and subject to right of appeal to the Environment Court
<p>The power to remove restrictive covenants & other encumbrances</p>	<p>In the case of conservation covenants, is subject to the approval of the Minister of Conservation</p>
<p>A faster process to exchange and revoke reserves</p>	<p>The approval of the Minister of Conservation is required in respect of government purpose, scenic and historic reserves</p>

This matter is still under discussion

This matter is still under discussion



Planning and consenting powers, checks and balances

This matter is still under discussion

Planning & consenting powers	Checks and balances
Powers to override existing and proposed district plans	<ul style="list-style-type: none"> Regional councils and territorial authorities participate in the objection process for development plans Development plan must be consistent with national direction under the RMA
Powers to override the growth management aspects of regional policy statements	<ul style="list-style-type: none"> Regional plan remains in force Development plan must be consistent with national direction under the RMA
Limited right to object	<ul style="list-style-type: none"> Mandatory consultation processes in the preparation of the development plan
Limited right to submit on consent applications	
Power to issue resource consents for land-use activities	<ul style="list-style-type: none"> Consent types relating to regional plan still issued by regional council Local councils will process consents where the UDA would be both the applicant and decision-maker
Power to recommend removing designations	<ul style="list-style-type: none"> Nationally significant infrastructure protected Must ensure network infrastructure remains connected with the wider network

Infrastructure powers, checks and balances

Infrastructure powers	Checks and balances
<p>Power to construct, move and stop transport and water infrastructure, and work with other operators to build, move or alter other types of infrastructure</p>	<ul style="list-style-type: none"> • Consultation required with government agencies, local government and other network utility operators • Does not extend to state highways or government roads • Does not override regional plan or regional council resource consent requirements • For nationally significant infrastructure, the UDA must obtain the network utility operator/asset owner's agreement
<p>Power to make, request changes to, or suspend by-laws which relate to infrastructure</p>	<ul style="list-style-type: none"> • Subject to same process requirements where made as part of the development plan process • Subject to same requirements as bylaws under the LGA where not made as part of the development plan process
<p>Ability to vest new development infrastructure at no cost to host local authority</p>	<ul style="list-style-type: none"> • Vesting subject to conditions agreed with host local authority • Any asset vested with debt remaining must come with a revenue stream to repay the debt
<p>Power to require a territorial authority to provide infrastructure if agreement is not reached</p>	<ul style="list-style-type: none"> • Territorial authority does not have to pay for the infrastructure in this case.

Funding powers, checks and balances

Funding powers

Checks and balances

Power to levy targeted rates

- The charges would only apply in the project area
- Charges will be limited to recovering the actual costs of infrastructure development
- Subject to the same consultation and hearing processes as the development plan

Power to charge development contributions and enter into development agreements

- The charges would only apply in the project area
- Charges will be limited to recovering the actual costs of infrastructure development
- Reconsideration requests and objections to independent decision makers
- Subject to the same consultation and hearing processes as the development plan

Power to levy a betterment charge

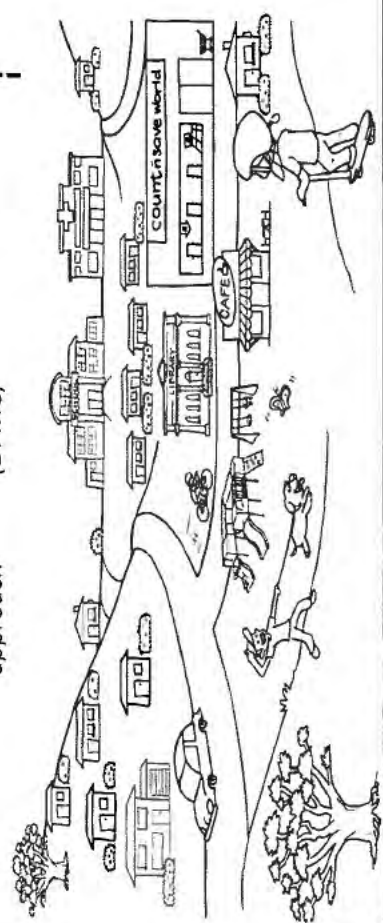
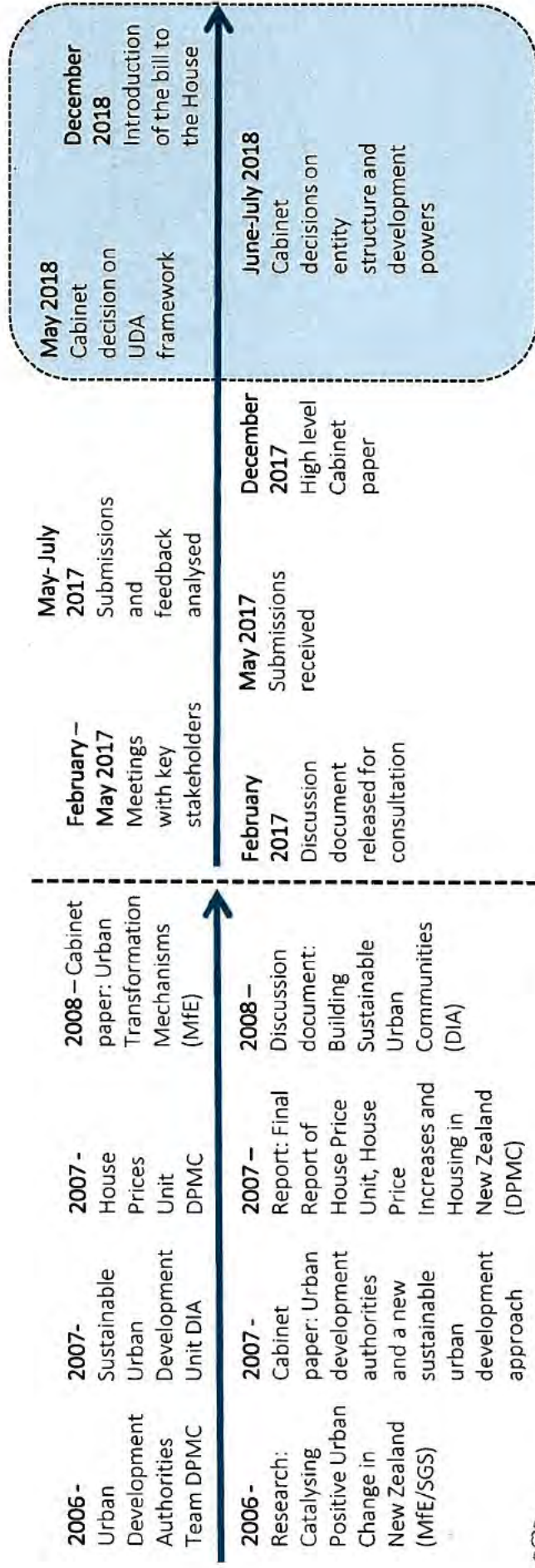
- The charges would only apply in the project area
- Charges will be limited to recovering the actual costs of infrastructure development over the productive lifetime of the asset

Power to own and manage public land, including the sale and purchase of that land, auction development rights, issue bonds etc.

- Provisions of Public Finance Act and Crown Entities Acts apply



Timeline of the national UDA



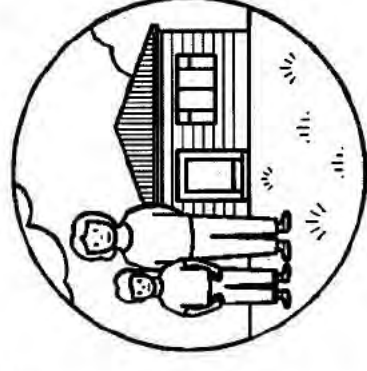
Policy progress

Where are we at?

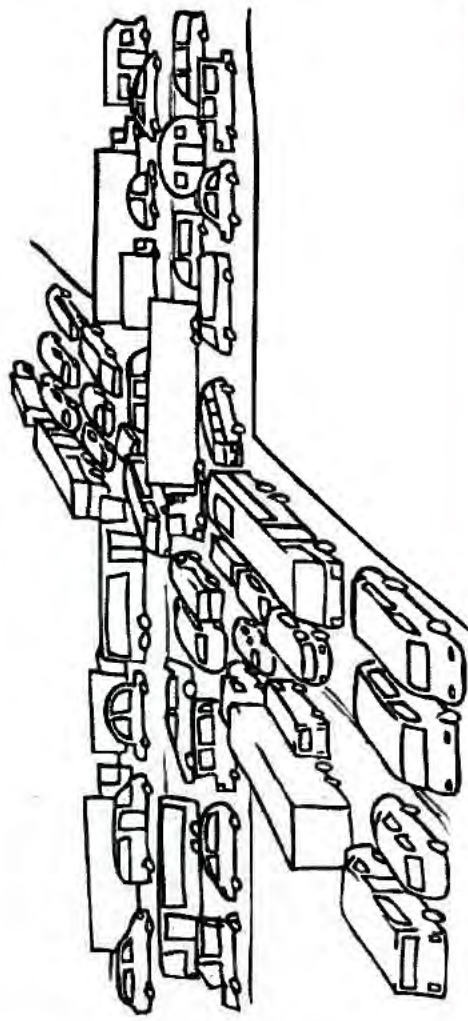
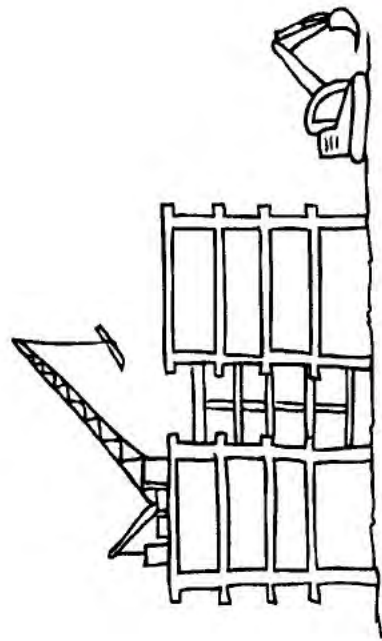
- Cabinet approved in principle policy proposals in December 2017.
- Detailed policy decisions on the entity structure, funding powers, planning and consenting powers, land assembly and reserve powers have yet to be made.

What comes next?

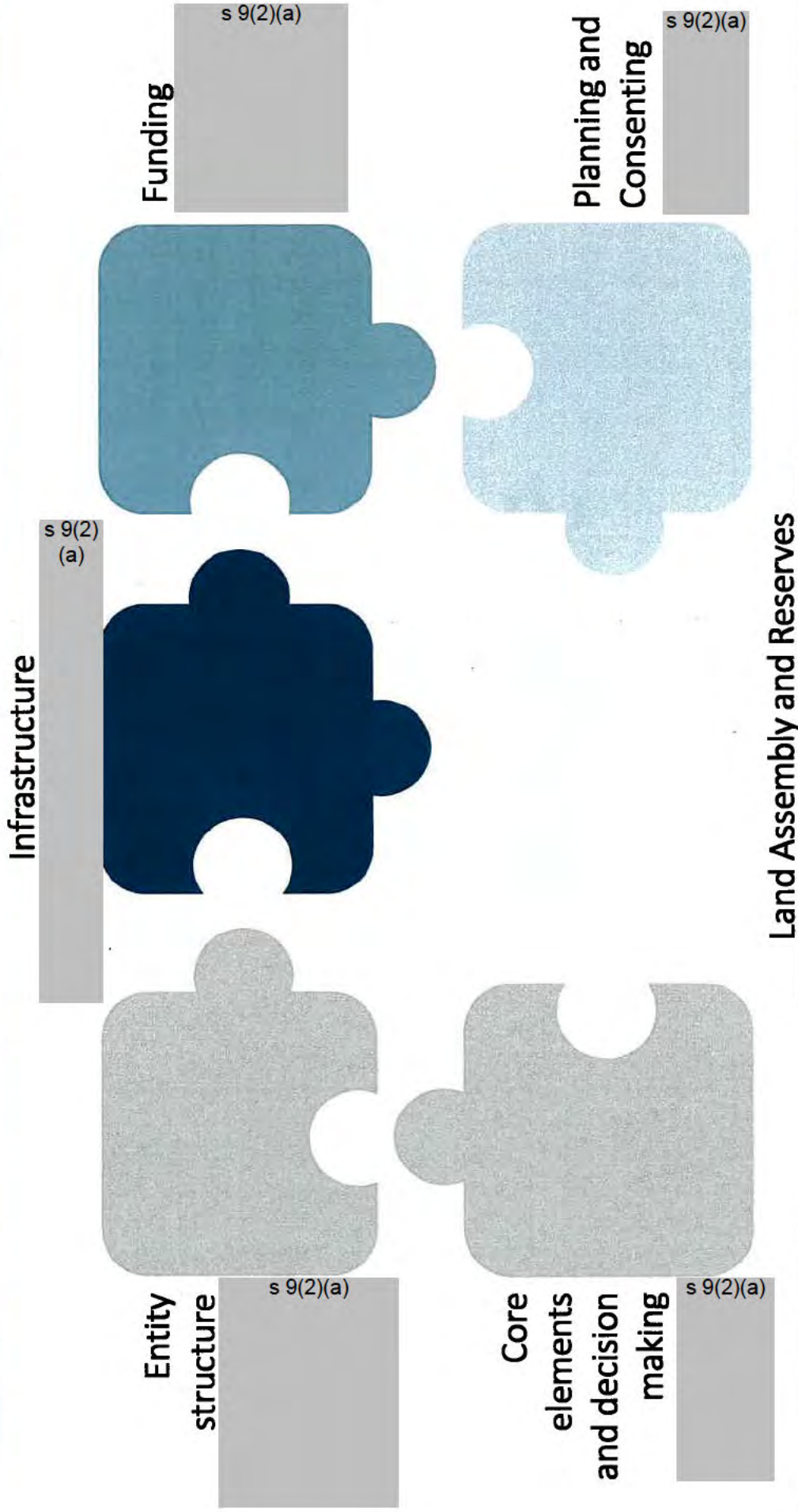
- May 2018: Cabinet decision on UDA framework and processes
- June-July 2018: Cabinet policy decisions on entity structure and development powers
- Aim: bill introduced to the House by December 2018



Annexes



MBIE work streams for project-based powers



Land Assembly and Reserves



Land assembly powers – acquiring private land

- Compulsory land acquisition:
 - The UDA will be able to apply to the Minister for Land Information to use the Public Works Act (PWA) to acquire land on its behalf by compulsory acquisition
 - Any application will be subject to the standard processes of the PWA, including rights of appeal to the Environment Court for the landowner to challenge the taking
 - Definition of ‘public work’
 - The PWA doesn’t specify which works the Crown and local authorities are able to take land by compulsion
- s 9(2)(h)
- Ministers are yet to agree the list of specified works (listed in MBIE briefing 1922 17-18)
 - The UDA can still apply the existing definition of ‘public work’ in the PWA
- Ensuring public benefits
 - Ministers have asked for advice on applying a public benefits test to works for urban renewal
 - These works must “enhance the wellbeing of the local or regional community”
- Note Māori land and land returned through Treaty settlements is discussed on a later slide



Land assembly powers – transferring land for development

- Transferring public land to a private developer for development won't impact on the status of public works
 - This means that a the Crown's obligations to first offer the land back to its previous owner won't be triggered
- Resuming land
 - If a developer fails to deliver the public work (eg housing) for which they bought land, the Crown will have the power to resume land
 - Compensation paid to re-acquire the land is the sale price, minus any improvements



Land assembly powers – using Crown land

- Some core Crown land within a development project area may be repurposed
 - Cabinet will decide which core Crown land to repurpose for a development project
 - The terms will be agreed by the UDA Minister, MoF and Minister responsible for the portfolio whose land will be transferred
 - The land will be transferred at fair market value
- The UDA will have an accelerated power to take public land from Crown agents only (eg ACC, DHBs and Callaghan Innovation)
 - The entity that owns the land will not have the right to object to the Environment Court under s23 of the PWA
 - This power will be exercised by the Governor General on the recommendation of the UDA Minister, MoF, Minister for Land Information and Minister responsible for the portfolio whose land is being acquired
- There may be a different process for providing the UDA with HNZ land
 - HNZ land will play a substantial role in development projects in existing urban areas
 - For this reason, we think a different process is merited for repurposing HNZ land
 - We have provided Ministers with advice on options for HNZ land (2239 17-18)
 - The best option will depend on decisions around the UDA entity form and origin agency



Māori interests in land assembly

- Establishing a development project
 - Relevant Māori land owners and iwi will be consulted on the establishment of any new development projects as early as possible
 - Initial assessment of any development project will include identifying any land in which Māori have an interest, what the interests are, what commitments exist and what opportunities there are for partnership. Land potentially needed for future Treaty settlements will be identified by Office of Treaty Settlements
 - If a proposed project area includes sensitive Māori land, then the owners asked whether the land can be included in the project
- Development plans
 - Development plans must adopt the same level of protection for sites of significance and natural resources for mana whenua usually provided through district and regional plans
 - The Minister for Crown/ Māori Relations and the Minister for Treaty of Waitangi Negotiations must confirm that development plan complies with applicable Treaty settlements and other signed agreements
- Right of first refusal (RFR)
 - Where the UDA holds or controls land subject to an RFR, the UDA will need to engage with the relevant iwi to seek a mutually agreeable approach. The UDA will be able to draw on a suite of options including offering iwi the first opportunity to be the developer of that land on the terms and conditions that the UDA wishes to set for the development

This matter is still under discussion – officials from CMR/TPK are considering an alternative approach

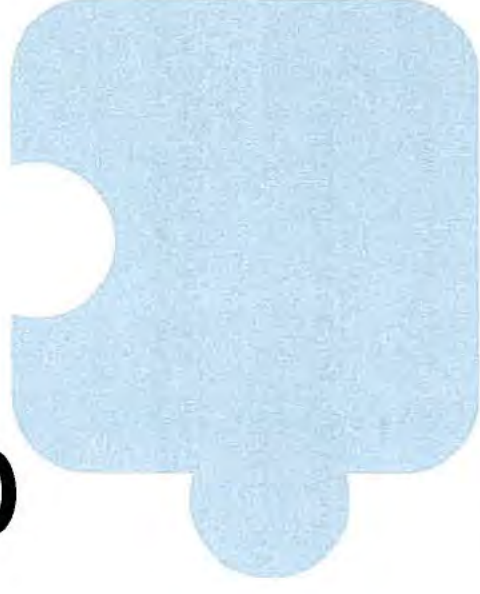


Reserves

- Powers to set apart all or part of a reserve for development purposes:
 - subject to prior consultation with the bodies that administer, manage and own the reserve; and
 - in the case of scenic, historic, and government purpose reserves (and perhaps for recreational and local purpose reserves), prior agreement of the Minister of Conservation, which may be subject to certain conditions.
- Key reserve values protected by development plan while land administered by UDA
- Powers to set apart urban development land for reserve purposes:
 - future reserve classification specified in development plan
 - future reserve vesting specified in development plan
- Nature and scientific reserves are excluded.

This matter is still under discussion

Planning and Consenting



Planning powers

Planning

- Enable the development plan to override the district plan and parts of the regional plan that would otherwise apply to the development project.
- The national UDA can be granted the planning and consenting functions of a territorial authority.
- Conditions can be imposed on the use of any planning powers that are granted.
- Enable the development of any site within the project area that adheres to the final development plan to proceed without any further plan change, notification or consultation being necessary.

Development plans

- Must give effect to any applicable national level RMA instruments (New Zealand Coastal Policy Statement, national policy statements, national environmental standards, and regulations) that apply in the project area.
- Cannot override planning provisions to the extent that they implement Treaty settlement legislation.
- Must give effect to any collective redress deeds and acts, deeds of settlement, deeds of agreement, or other legislation or planning provisions arising out of settlement of historical Treaty claims.
- Must not override protection for significant historic heritage, significant indigenous biodiversity and sites of significance for tangata whenua in district plans.



Consenting powers

- When making land use consenting decisions, the decision-maker must have regard to the following matters:
 - The purpose and principles set out in the urban development legislation (which includes the matters in Part 2 of the RMA)
 - the strategic objectives of the development project; and
 - other matters in sections 104-107 of the RMA.

The weightings of these matters are still to be determined

- When granted the power, the urban development authority (or, if the authority so chooses, the territorial authority or independent commissioners that the authority appoints), acts as the consenting authority.



Māori interests in planning, urban development and land use

Further assessment is needed on maintaining Treaty settlement redress once decisions taken on role of local government

Development plan must:

- identify Māori cultural interests and how they will be catered for
- give effect to Treaty settlements and show how commitments are being complied with
- adopt the same protection for sites of significance and natural resources as provided through district plans

Honouring Treaty settlements:

- Cannot override any legislation or deed of settlement arising from a Treaty claim
- Land needed for future Treaty settlements must be identified and protected
- Crown remains bound by rights of first refusal (RFR); the national UDA must fulfil those obligations for any RFR land vested in it
- The national UDA is bound to uphold any co-governance arrangements established under settlements

Choice to opt out of a development project for:

- land held under Te Ture Whenua Maori Act 1993
- land transferred to post-settlement governance entities under a Treaty settlement, both
 - at the time of settlement; and
 - later as a result of exercising a right of first refusal
- No opt out for land purchased from third parties
- No opt out for RFR land purchased after the development project has been established

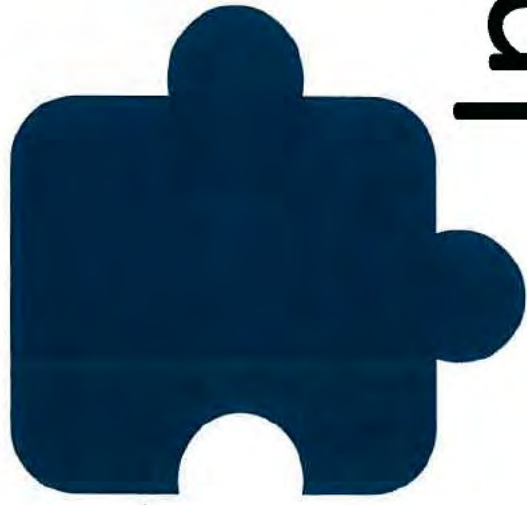
Cannot override regime applying to Māori land under Te Ture Whenua Māori Act 1993

Establishing a development project:

- Opportunity for Māori to participate as partners and/or access the benefit of the enabling powers
- Initial assessment must identify all land with Māori interests; requirement to engage with those landowners and Māori who have an interest
- Maintaining Māori relationship with their ancestral lands must be a strategic objective

Under discussion with GMR/TPK who are considering an alternative





Infrastructure and Funding



Infrastructure powers

- Within the project area the same powers as Auckland Transport to stop, move, build and/or alter:
 - local and private roads and connections to state highways
 - Land transport or public transport infrastructure – including light rail infrastructure
- The same powers as a territorial authority to build, move, or alter drinking water, wastewater infrastructure and to construct or move drains.
- Construct, move or alter ancillary facilities associated with the above.
- Contract with and/or request network utility operators to stop, build, move and/or alter electricity, gas, telecommunications or other privately owned utility services.
- Carry out any preliminary works (such as demolition).
- Enter public and privately-owned land to undertake surveying, inspections or assessments.
- Make agreements with territorial authorities to upgrade remote trunk infrastructure systems.
- Territorial authority long-term plans, regional land transport and public transport plans must not be inconsistent with the strategic objectives of the Development Plan.
- Recommend changes to, regional land transport or public transport plans.
- Create, suspend or amend by-laws, for roads, reserves and other matters and enforce those bylaws.
- Request a local authority create or amend bylaws.
- Vest any new infrastructure in the host territorial authority.
- Be a requiring authority and a road controlling authority.



Finance and funding powers

- Buy, sell and lease land and buildings in the development project area
- Auction off the development rights to land in the development area
- Borrow from private lenders or banks, issue bonds or shares, create joint venture or co-investment arrangements and enter into funding contracts.
- Levy a targeted rate on property owners within the project area that apply annually
- Charge development contributions and enter into development agreements
- Require payment of betterment for transport projects (roading, cycleway or light rail) that increase property values – but only where land is being acquired by the agency
 - Incorporates the same valuation and objection processes as for betterment under the LGA 1974.
- Direct the income from any targeted rate to a privately-owned vehicle.

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