



BRIEFING

UDTA Infrastructure and Funding Consultation Report Back

Date:	1 March 2018	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2168 17-18

Action sought		
	Action sought	Deadline
Hon Phil Twyford Minister of Housing and Urban Development	Agree to proposals to enable the Urban Development and Transport Agency to require betterment payments Forward this briefing to the Ministers of Finance, Infrastructure, Environment and Local Government	8 March 2018
Hon Jenny Salesa Associate Minister of Housing and Urban Development	For your information	

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Di Anorpong	Manager, Housing and Urban Branch	04 9018 743	s 9(2)(a)
Richard Hills	Principal Policy Advisor	04 896 5128	✓
Edward Dolan	Policy Advisor	04 896 5673	

The following departments/agencies have been consulted
Department of Internal Affairs, Ministry for the Environment and the Treasury

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 Withdrawn |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



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Purpose

To report findings from consultation undertaken with four local authorities (Auckland, Hamilton, Tauranga and Queenstown) and selected utility providers about proposed Urban Development and Transport Agency powers and processes, including targeted rates and the replacement of the territorial authority veto with a voluntary binding agreement approach.

Recommended action

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

a **Note** that consultation findings suggest that councils and utility providers were overall quite accepting of the proposed Urban Development and Transport Agency approach with regard to infrastructure and funding powers, and the changes related to the local authority veto power and Agency ability to levy targeted rates

b **Agree** that the Urban Development and Transport Agency be granted powers to require betterment payments from beneficiaries of roading works under the Local Government Act 1974, and that payments be extended to include light rail, busways and cycleways

Agree / Disagree

c **Forward** this briefing to the Ministers of Finance, Infrastructure, Environment and Local Government for their information

Agree / Disagree

Di Anorpong
Manager, Housing and Urban Branch
MBIE

28 / 1 / 17

Hon Phil Twyford
Minister of Housing and Urban
Development

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Background

1. At a meeting on 18 December 2017 you, in conjunction with the Minister of Finance and the Minister for Infrastructure, directed officials to consult with selected high-growth councils to discuss aspects of the Urban Development and Transport Authority (UDTA), including the replacement of the council veto with a voluntary binding agreement.
2. At the same meeting, the Minister of Finance also requested officials check to that key strategic network utility providers (electricity and telecommunications for example) are comfortable with UDTA proposals that could impact on their infrastructure.
3. In January and February 2018, officials from the Ministry of Business, Innovation and Employment (MBIE), Department of Internal Affairs, the Treasury and Ministry for the Environment met with senior officials at Auckland Council, Tauranga City Council, Hamilton City Council and Queenstown-Lakes District Council. We are aware that Christchurch City Council officials obtained copies of slides used at these meetings, but they made no comments on the content.
4. In February 2018, MBIE officials also met with Chorus, Spark, Transpower, Vector and the Electricity Networks Association. Other utility operators were contacted but felt they did not need to meet if UDTA proposals were largely unchanged from the 2017 discussion document.
5. Key points from the council consultation meetings can be found at Annex 1.

Key Conclusions

6. Our overall conclusions, based on the feedback received from some high-growth councils and network utility operators, are that:
 - councils were broadly supportive of the proposal to replace the council veto with a binding agreement, or if no agreement can be reached, a requirement on councils to provide (but not pay for) infrastructure
 - councils were happy with the UDTA having the power to levy targeted rates to recover the infrastructure costs of a development, provided that councils retain responsibility for the administration, collection and enforcement of those rates (and are able to recover their costs from the UDTA)
 - proposed policy settings for nationally significant network utility infrastructure, where the UDTA has a duty to consult and collaborate with providers early, remain unchanged.

Feedback from councils

Councils were comfortable with replacing the territorial authority veto with a voluntary binding agreement

7. In 2017, reflecting previous UDTA proposals, councils were told they would have a veto power regarding the establishment of UDTA projects within their boundaries. This approach has since changed to one where councils are encouraged to sign a binding infrastructure and cost-sharing agreement. If agreement cannot be reached, the UDTA will have the power to itself provide, or require councils to provide (although not pay for) infrastructure within a development project area. Councils were asked to provide comment on this change.

8. Councils expressed little concern about the new approach, provided UDTA and council objectives align, that there are robust assessment criteria for the UDTA to access this requiring power, and that any requirements must contribute to achieving a national objective.

Councils supported the UDTA levying targeted rates

9. Council consultation raised no serious concerns over the UDTA having a power to levy targeted rates to recover development costs. The approach was considered necessary to achieve project outcomes and fairer than increasing the general rate for all ratepayers.
10. Councils expressed enthusiasm for introducing two broad changes to targeted rates (which the UDTA could access):
- reconfiguring what targeted rates can be used for to target land-bankers
 - being able to charge rates for multiple years, or even decades without having to re-fix them annually (as is done now).
11. There was no concern about councils having to administer, collect and enforce UDTA targeted rates provided they could recover their costs and the targeted rate could be clearly separated from other council rates.

Other key points from council feedback

Auckland Council proposed a one-step public consultation process when establishing a development project

12. Auckland Council expressed concern about the first of the two consultation rounds proposed during the UDTA project establishment process. They believed the first round would not be beneficial and would simply add time to the UDTA project establishment process.
13. Auckland Council felt there would be insufficient detail to undertake meaningful consultation (except with project partners) until the draft development plan has been completed (i.e. the second consultation stage) and that earlier consultation would only frustrate a public expecting detail and so create opposition.

The UDTA could benefit from powers to require betterment payments from landowners

14. Hamilton City Council noted that they found the power to require a landowner to make a betterment payment¹ for roading work under the Local Government Act 1974 useful.
15. The Council had recently used betterment to almost entirely offset the cost of acquiring land for a road widening project where the increase in the landowner's land-value arising from the work matched the value of the land they required. This was identified as an approach that could be useful for the UDTA to employ when circumstances allowed.

The UDTA can be a useful mechanism to overcome land amalgamation and fragmentation issues

16. Councils were supportive of the UDTA having land acquisition and assembly powers. They identified fragmentation of land ownership (particularly where there were hold outs) as adding considerable cost and time to larger-scale urban development projects.
17. Linked to this, the UDTA was also seen as a useful mechanism to cut through issues surrounding compulsory land acquisition, sensitivities around private property rights, and restrictive covenants on potentially developable land.

¹ A payment by a land owner to the provider of public works that recognises the enhanced value of land or property arising from a public work

19. At the same time, councils expressed caution that UDTA powers should not be used in a way that removed the role of local councillors to represent their constituents, nor be used as an avenue for developers to bypass legitimate community concerns and council approval processes for projects that were not of national importance.
20. Councillors were said to be more accepting of the necessity for increased medium or high-density housing capacity, particularly on brownfield sites. This is a reflection of their greater comprehension of the housing crisis and the problems associated with the current shortage of affordable homes to buy or rent.

Differing levels of support for the need for a UDTA and its ability to deliver effectively

21. While councils were generally supportive of the concept and rationale for establishing the UDTA, there were also doubts about the benefits it could bring. Councils wondered whether powers should instead be delegated to them in particular circumstances. They also queried whether the complexity of the decisions and procedures the UDTA would need to undertake would make things slower than the status quo.
22. There was some doubt in councils outside Auckland as to whether their (small scale) development needs are sufficient to warrant UDTA involvement and the powerful and potentially contentious powers the UDTA could employ.

Network Utility Providers Feedback

23. Network utility providers were very supportive of the proposed approach where the UDTA would work in a consultative and collaborative manner with them from the early stages of a development project. This support is unchanged from the views they expressed in consultation undertaken in 2017.
24. They specified that the UDTA needed to communicate with them early, take into account utility provider needs, comply with utility provider infrastructure standards, and commission the owners to move or upgrade the infrastructure when required. These matters have already been anticipated and provided for in the policy settings of the UDTA.
25. Network utility operators also noted that:
 - it would be useful to undertake hypothetical development scenarios to gauge the look and feel of the UDTA and how it operates – to see whether it (and utility providers) can deliver on expectations
 - the amount of Ministerial discretion to make changes to a development plan after it has been through hearings and objection processes should be limited. By this stage stakeholders would have spent considerable time and resources on the development.

Recommendations

26. Given the positive experience of Hamilton City Council using betterment payments under the Local Government Act 1974 (LGA), we recommend that the UDTA have access to essentially this power. Although it would seem unlikely the power would be used frequently, having it available could save the UDTA money in certain circumstances.

27. However, the betterment provisions of the LGA have not been updated since 1985, and do not consider scenarios where a local authority or urban development authority may require land outside of the road corridor for light rail, busways or cycleways. Subsequently, as these are all forms of transport infrastructure that the UDTA could construct within its project areas, we recommend the UDTA be able to require payment of betterment in cases where land is needed for these additional forms of transport infrastructure.

