



BRIEFING

Urban Development Legislation: Organisational issues

Date:	1 February 2018	Priority:	High
Security classification:	In Confidence	Tracking number:	1022 17-18

Action sought		
	Action sought	Deadline
Hon Phil Twyford Minister of Housing and Urban Development	Agree to the recommendations. Forward this briefing and discuss these issues with the Ministers of State Services, Environment, Finance, Local Government, and Infrastructure.	5 February 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, Construction and Housing Policy	(04) 901 8743	s 9(2)(a)	✓
Andre Anderson	Principal Advisor, Housing Markets	(04) 474 2815	s 9(2)(a)	
Miranda Birchler	Policy Advisor	(04) 896 5854		

The following departments/agencies have been consulted				
☒ Treasury	☐ MoJ	☐ NZTE	☐ MSD	☐ TEC
☐ MFAT	☐ MPI	☐ MfE	☒ DIA	☐ TPK
☒ Other:		SSC		

Minister's office to complete:

☐ Approved

☐ Declined

☐ Noted

☐ Needs change

☐ Seen

☐ Overtaken by Events

☐ See Minister's Notes

☐ Withdrawn

Comments



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Purpose

1. This briefing contains our advice on the primary organisational issues under the urban development authority legislation.
2. On 20 December 2017, the Cabinet Business Committee agreed in principle to establish the "Housing Commission" as a national urban development authority (UDA) with a process and more enabling development powers to:
 - a. support high quality urban development for complex development projects;
 - b. provide greater coordination, certainty and speed; and
 - c. be capable of supporting a wide range of development projects. [CBC-17-MIN-0051]
3. The Cabinet Business Committee paper described the core elements proposed for the new legislation, and signalled that there are a number of critical policy issues that need to be resolved before detailed policy decisions can be made early this year. These issues are discussed in the series of briefings outlined below, with the briefings you have already received shaded grey.

1.	Fundamental issues
2.	Organisational issues
3.	Decision-making: priorities and principles
4.	Approach to Māori interests
5.	Land assembly powers, especially compulsory acquisition
6.	Infrastructure and funding powers
7.	Planning and consenting issues
8.	Powers to change reserves

4. This briefing focuses solely on the organisational issues that would arise under legislation to enact such powers (meaning the Housing Commission (Urban Development Powers) Amendment Bill you are proposing, not the Housing Commission Bill). Thus, how the "Housing Commission" may need to be organised to support other responsibilities that it may be given under its establishing Act does not fall within the scope of this advice.

Executive summary

5. SSC is providing you with advice about the organisational form of the "Housing Commission." This briefing focusses on the wider organisational issues raised by the proposed legislation that will enact more enabling development powers, in particular:
 - a. the implications of establishing a powerful new delivery organisation that will need to own public land that is currently held in other parts of the Crown; and
 - b. how to provide for local government participation in decision-making.

Land implications of establishing a powerful delivery organisation

6. You have said that you would like to establish a powerful new national UDA with the ability to deliver large-scale development:
 - a. The inclusion of the more enabling development powers in the proposed legislation calls for the UDA to have a set of authorising functions that enable it to recommend the development plan and then later exercise the powers approved in that plan to deliver the development's objectives.
 - b. For the UDA to be a powerful delivery organisation requires it to have a suite of project management functions that make it responsible for delivering the development outcomes the Government is seeking in each development project (captured in each project's strategic objectives).
7. Critically, because only the landowner can procure particular developments, in order for the UDA to function as a delivery organisation, the most important tool it will need is ownership of sufficient public land in each project area. Without any public land, the UDA will be unable to be the delivery organisation that you envisage in existing urban areas.
8. Because the Crown is unlikely to have sufficient existing landholdings in greenfield areas, the UDA is likely to need to purchase land from private owners in order to lead large-scale developments in these areas.
9. In existing urban areas, the cost of acquiring land from private owners would limit the UDA's ability to work at scale from that source alone. Consequently, the most important source of land for the large-scale development projects you are envisaging in existing urban areas will be the public land that is currently held by other parts of the Crown and operated by different agencies.
10. If a development project is established that requires the UDA to own the public land those entities currently hold in the project area, there would be implications for the operations of these other public landowners. For this reason, in order to enable the UDA to be a powerful delivery organisation, an important threshold issue is how to provide it with the public land that is currently owned by the Crown but operated by different agencies, and the implications that raises for those other entities.
11. While many different government departments or entities own Crown land in urban areas (e.g. NZTA, Education, Defence), when considering the potential for urban development, the key landowning entities are Housing New Zealand Corporation (HNZC), Tāmaki Redevelopment Company in Auckland and Ōtākaro in Christchurch. Thus, a useful way to consider the organisational implications of establishing the UDA as a full delivery organisation is to consider what that means for the land held by these Crown agencies and, by extension, what their ongoing role in respect of that land would be (if any).
12. In particular, the scale and location of HNZC's landholdings mean that, for most development projects to be successful in existing urban areas of Auckland, the HNZC land inside the project area will need to play a material role in the development. Thus, before the UDA can

be the delivery organisation for these projects, it would need to own that land. This raises issues for both the management of that land and HNZN's operations, such as how to ensure integration of tenancy and property management functions with the development outcomes the Government is seeking. Accordingly, before making any final decisions, we recommend that you direct officials to explore these issues with the relevant agencies and report back with options.

Local government participation

13. In addition to considerations of local democratic accountability and local representation in decisions that have significant local impacts, local government is particularly important to development projects for two further reasons:
 - a. Land ownership: the better outcomes likely to flow from being able to include land that local government owns within the project area, in addition to all the Crown land.
 - b. Infrastructure: the likely need for additional capacity to support large-scale developments from the network infrastructure that local government operates and funds.
14. Before local government agrees to contribute its land to a project, or agrees to contribute future capital towards the cost of greater infrastructure capacity, it will want to secure appropriate representation at the decision-making level. Thus, if the Government wants local government investment in a development project, providing local government representation will be unavoidable. The only question is whether to provide for that representation as part of the UDA's internal decision-making (and thus provide for it within the new legislation), or to rely on the UDA establishing separate agreements with the relevant local government on a project-by-project basis. (For now, we refer to local government generally, but note that the legislation would ultimately need to differentiate between territorial authorities and regional councils.)
15. The disadvantage of the latter approach is the time it will take to negotiate a joint venture with the relevant local government in each case. While negotiation will always be required on whether local government will support the project and the amount of investment it will make, the need to also negotiate the governance arrangements that reflect that investment could cause significant additional delay.
16. The alternative is to provide a mechanism within the new legislation that automatically provides for local government involvement with decision-making, but only when it has agreed to support the project. This would involve a decision-making body within the UDA that is appointed by both central and local government and that is accountable back to each set of elected representatives. Representation could vary depending on the extent of investment that each party makes.
17. The disadvantage of this approach is the added complexity required for the governance structure of the UDA. But we think this complexity is warranted by the time saved through avoiding the need to negotiate the terms of governance for each separate development project. In essence, it would require a separate decision-making body within the UDA for at least each region (and potentially for each territorial authority or even each project) that is allocated all the UDA functions (i.e. both authorising and project management functions). But there would still be only one chief executive and staff of the national UDA that would support and report to each decision-making body. The regional decision-making body would still ultimately be accountable to the national UDA.

Agency Consultation

18. We have had initial discussions with the agencies listed on the front page of this briefing but we have not yet had a chance to fully discuss the implications of our recommendations with them.

Recommended action

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

- a. **agree** that, because the functions of the "Housing Commission" extend beyond just housing:
- i. for the purposes of the legislation, rename the "Housing Commission" as the "New Zealand Development Agency";
 - ii. the new legislation provide for the organisation to adopt (and change) a different trading name from that used in the legislation, if it so desires; and
 - iii. the title of the "Housing Commission";

Agree / Disagree

- b. **agree** that the national UDA have both authorising and project management functions that enable it to both:
- i. authorise the use of the more enabling development powers; and
 - ii. undertake the management and operational functions required to deliver the development outcomes the Government is seeking;

Agree / Disagree

- c. **agree** that the national UDA have the discretion to exercise the developer functions for particular developments within the project area, which means financing that development and taking on the marketing risk;

Agree / Disagree

- d. **agree** that,
- i. in order to be able to provide private sector developers with access to the more enabling development powers (as Cabinet has agreed); and
 - ii. to provide the option for existing public developers such as Tāmaki Redevelopment Company to continue to exercise project management functions in their projects,

the new legislation enable the Government to appoint an entity other than the UDA to exercise the project management functions, without also being able to exercise the authorising functions (which continue to be exercised by the UDA);

Agree / Disagree

- e. **note** that the key implications of establishing the national UDA as a powerful delivery organisation are:
- i. in existing urban areas, the UDA would need to own sufficient public land to be able to procure the development outcomes the Government is seeking;

- ii. public land in existing urban areas is currently held by the Crown and operated by other departments and agencies;
- iii. changing the owner of that public land would have implications for its current owners;
- f. **direct** officials across relevant landholding agencies to report back by the end of February identifying the issues that would arise if the UDA needed to own land currently held by other public agencies and assess the options for doing so;

Agree / Disagree

- g. **agree** that, where the relevant local government has agreed to support a development project, the new legislation automatically provide for both the authorising functions and project management functions to be exercised within the national UDA by a decision-making body that is jointly appointed by, and accountable to, central and local government in broad proportion to the extent that each party is willing to invest land or capital in the project;

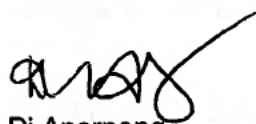
Agree / Disagree

- h. **agree** that the new legislation enable the Government to appoint any publicly controlled agency to be a UDA, with both authorising functions and project management functions;

Agree / Disagree

- i. **forward** this briefing and discuss these issues with the Ministers of State Services, Environment, Finance, Local Government, and Infrastructure.

Agree / Disagree



Di Anorpong
Manager
Construction and Housing Policy
Housing and Urban Branch, MBIE
11 / 2 / 18

Hon Phil Twyford
**Minister for Housing and Urban
Development**
..... / /

Introduction

19. On 16 November 2017, you received a briefing that discussed new legislation required:
- to establish a national urban development authority (UDA), and
 - to provide more enabling development powers to support complex or strategically important development projects, such as those that form part of your strategy for delivering KiwiBuild.
20. That briefing described the core elements proposed for the new legislation, and signalled a series of further briefings on critical issues, of which this is one.
21. You have said that you would like to establish a powerful new nationwide development agency with the ability to deliver large-scale development. This briefing focusses on the organisational issues this raises, in particular:
- a. the implications of establishing a powerful new delivery organisation that will need to own public land that is currently held in other parts of the Crown; and
 - b. how to provide for local government participation in decision-making.

“Housing Commission”

22. Last December's Cabinet paper flagged potential roles for the “Housing Commission” that would apply whether or not new legislation is enacted to empower complex development projects (i.e. under the status quo):
- a. Acting as the lead development agency for development projects that can progress well under existing development legislation, such as the work of the Land for Housing Programme that Cabinet approved before Christmas [CBC-17-MIN-0100].
 - b. Acting as the owner and manager of the Crown's land assets in urban areas.
23. As compared to these other potential roles, key considerations for complex development projects are:
- a. how to exercise the more enabling development powers that are to be included in the new legislation, which will not be available for any of the other roles that the “Housing Commission” may undertake; and
 - b. the relationship that the “Housing Commission” will have with local government, which has greater significance for complex development projects, especially large-scale ones.
24. Thus, for the purposes of this briefing, we distinguish between the wider suite of roles that the “Housing Commission” may ultimately have, and its more particular roles:
- a. leading complex development projects (as distinct from business-as-usual developments); and

- b. exercising the more enabling development powers that will be included in the new legislation.
25. To draw this distinction, in this briefing we refer to an urban development authority (UDA) when referring to these roles within the "Housing Commission".



Title

26. Cabinet has already agreed that the new legislation will support urban development projects that do not include a housing component. [CBC-17-MIN-0051] You are also considering whether to include the functions of the New Zealand Transport Agency as part of the "Housing Commission." In either case, its functions will extend well beyond housing.
27. Given that the Government has already decided that the entity should have non-housing functions, retaining the current title has the potential to raise problems across a range of scenarios, from the functions of the entity, to matters such as the application of eligibility criteria to proposed development projects. Moreover, at a practical level, staff and stakeholders who need to engage with non-housing functions will find the "Housing Commission" a confusing and potentially undermining title. Accordingly, we consider that the better approach is to rename it.

Approach

28. There are two potential approaches to naming the entity that turn on whether or not the same title is used in both the legislation and for trading purposes.
29. The advantage of one name is simplicity. Advantages of having two names would be:
- a. the trading name needn't have the same content that would be desirable for a title used in legislation (e.g. it needn't include "commission" or "authority");
 - b. the trading name could more easily incorporate te reo Māori if desired (as in the case of Auckland Council's development agency: "Panuku Development Auckland");

- c. the trading name can later be changed if desired, without needing to amend the legislation; and
- d. the trading name needn't be settled immediately, and could potentially be left to the first board and chief executive to determine as part of establishing the new organisation's identity.

Options

30. The most straightforward option for a title that can be used in legislation is some variation built around "development".
 - a. This could be preceded by "urban", although that wouldn't work if the New Zealand Transport Agency's functions are included.¹
 - b. Whether to also include "national" or "New Zealand" in the title would depend on whether emphasising a nationwide mandate sits appropriately with the inherently local nature of the projects it will undertake.
 - c. Finally, there is the question of whether to call the entity a "commission," "agency," "authority" or "corporation" (the latter two terms being the preferences in Australian and UK legislation, respectively).
31. Thus, for example, the legislation could be called the "Development Agency Act" with the "New Zealand Development Agency" being the defined term used within the legislation. However, to avoid confusion in the meantime, we continue to refer to the "Housing Commission" in this briefing, or to the UDA.

Functions

32. To give effect to the new processes and powers proposed in the legislation, we propose two sets of functions for the UDA that distinguish between:
 - a. authorising functions: the governance and decision-making functions required to exercise the new development powers; and
 - b. project management functions: the management and operational functions required to actually deliver the development project.
33. Together, these are the functions that will differ from the standard approach to development as a result of the proposed legislation and that relate to a government role in development ("UDA functions"). We then note the other standard functions that need to be fulfilled to deliver any development project, some of which we recommend the UDA also be able to undertake.
34. As we move on to consider the key organisational issues, it will become apparent that the authorising and project management functions may also apply to entities other than the "Housing Commission" if you wish to respond to the issues in certain ways. Thus, when we refer to the "UDA", bear in mind that it may not refer solely to the "Housing

¹ Given that those functions include building highways in rural areas.

Commission" as UDA, but to any other entity that may subsequently be given part (or all) of the same role.

Authorising functions

35. The first set of functions relate to the UDA's role in exercising the more enabling development powers. Consequently, the need for these functions only arises in the context of the proposed legislation.
36. The functions are the governance and decision-making functions required to:
 - a. oversee the preparation of the development plan;
 - b. recommend the final draft development plan to the Minister; and
 - c. exercise the development powers as and when needed to achieve the strategic objectives of the development project, provided the proposed use of the powers has been approved in the development plan.
37. Under the approach that Cabinet approved before Christmas, the power to approve which powers can be used and in what circumstances sits with the Minister, via the content of the development plan. Any exercise of the selected development powers is also subject to the development plan. The Minister holding the decision-making power is the primary mechanism to ensure democratic accountability.

Project management functions

38. The second set of functions relate to the UDA's role in delivering each development project. These are the core functions needed to make things happen. Consequently, they include functions needed when government is leading any development project, but are tailored to the processes and requirements proposed for the new legislation (such as the need to deliver strategic objectives).
39. The functions are the management and operational functions required to:
 - a. realise the strategic objectives of the development project in accordance with the approved development plan, including initiating and leading urban development of the project area;
 - b. manage and spatially master plan the development project in accordance with the development plan (referring to the more detailed planning required);
 - c. collaborate with, and build support for the development project among, the development project's community;
 - d. assemble public landholdings with private landholdings within the project area to undertake development on the required scale;
 - e. coordinate and integrate the delivery of infrastructure identified in the development plan for the development project;

- f. partner with private sector developers (including iwi) to deliver the overall development project, and procure developers for particular sites within the project area;
- g. own, operate and/or maintain public assets in the project area, including infrastructure and public land; and
- h. consult and collaborate with the stakeholders necessary to successfully realise the strategic objectives of the development project.

Monitoring functions

- 40. As a government process, it will also be important to ensure that a government department undertakes a monitoring function to oversee the operations of the UDA.

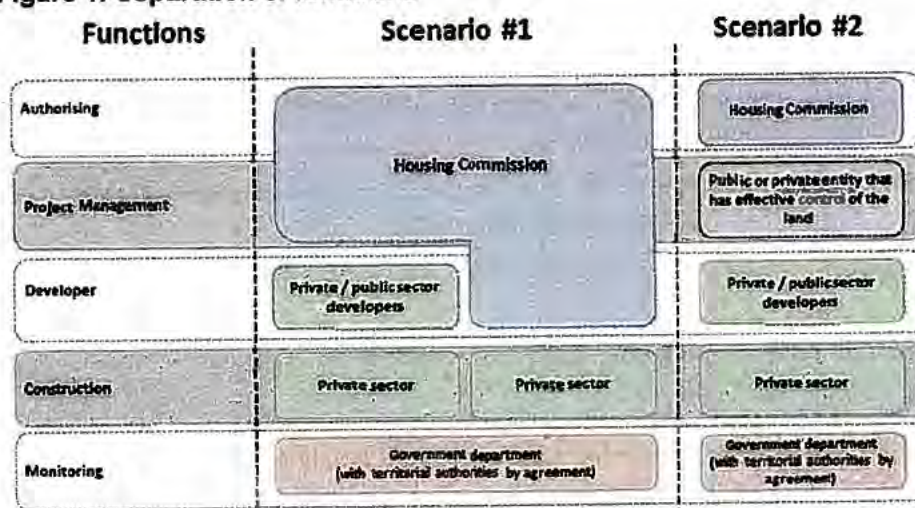
Other standard functions

- 41. Finally, there are two other sets of functions that need to be undertaken in any development project, which we refer to here as the developer and construction functions.
- 42. Developer functions include the design, financing and marketing of particular developments within the overall project area. The developer functions will usually be undertaken by the private sector, who take the risk on the development of a particular site in exchange for earning profits.
- 43. However, in certain circumstances it will be important for the UDA to be able to undertake this function itself in order to demonstrate the potential of particular developments that the private sector would otherwise be unwilling to take. A good example is the Hobsonville Point development, where the Crown took the design and land development risk in order to demonstrate the potential for a much higher density development than the private sector would have been willing to provide. The result is twice as many houses in that development project than there would have been had the private sector led the development alone.
- 44. Finally, the construction functions are those undertaken by the sub-contractors that the lead developer engages to deliver physical outcomes.

Summary

- 45. All five main functions are set out in the diagram below.
- 46. Overseas, urban development authorities undertake the first two functions and choose whether to exercise the risk-taking developer functions on a case-by-case basis (Scenario #1).
- 47. Conceptually, however, different entities could undertake the first two functions, with the UDA exercising the authorising functions and another entity exercising the project management functions (Scenario #2).

Figure 1: Separation of functions



48. The value of combining the authorising and project management functions is that a single organisation is vertically integrated across both the exercise of the development powers and the delivery of the project. In contrast, if the two functions are separated across different organisations, the UDA would become an authorising entity only, with no role in the operational delivery of the project.
49. As you want to establish a powerful new delivery organisation, we recommend that its functions follow overseas practice, as set out in Scenario #1. However, for the reasons set out in the following section, we think that the legislation should also enable the separation of functions set out in Scenario #2 in certain circumstances.

Private sector access

50. Cabinet has already agreed that private sector developers can access the benefit of the more enabling development powers for their own development projects, but not the power to exercise those powers [CBC-17-MIN-0051].
51. The means is to separate the authorising functions from the project management functions. Because the private developer owns the land, it is the only viable candidate for delivering the development outcomes. Consequently, there is no point allocating the project management functions to the UDA. Equally, it is not tenable to allocate the authorising functions to a private sector entity. Hence, the only solution is to separate the functions.
52. For this reason, we recommend that the new legislation require the Order-in-Council that establishes the project to make two appointments: one entity to exercise the authorising functions and one entity to exercise the project management functions. Where appropriate, these can be the same entity. But where a private sector developer is establishing one of its own developments as a project under the legislation, the requirement will be for the developer to be appointed with the project management functions and the UDA appointed with the authorising functions.

Organisational issues

53. When considering legislation to empower complex urban development projects (as distinct from legislation to establish the "Housing Commission"), this briefing addresses the following organisational issues:
 - a. ownership of the public land needed to deliver development projects;
 - b. how to treat New Zealand's existing development agencies;
 - c. how to manage the UDA's relationship with the local community;
 - d. how to manage the UDA's relationship with local government; and
 - e. whether to retain an option to appoint more than one UDA.
54. The issues significantly overlap. Consequently, in this section, we discuss each issue and the relevant considerations. Then, in the following section, we identify structural options that respond to the collective issues in different ways.
55. As the nature of the issues suggest, this briefing considers the set of actors within the development system as a whole, rather than just the organisational design of the UDA. Although we consider how the issues apply to the "Housing Commission" as UDA, the organisational issues raised by enacting more enabling development powers extend beyond the "Housing Commission" itself.
56. Similarly, this briefing does not address organisational issues that are particular to the "Housing Commission" (such as incorporating Māori representation on its board, or whether it should be able to issue guarantees and debt securities).

Ownership of public land

57. Because only the landowner can procure development, in order for the UDA to be a delivery organisation, the most important tool it will need is ownership of public land. Without any land, the UDA will be unable to undertake the project management functions of a UDA.

Tāmaki case study

58. The initially slow progress of the Tāmaki regeneration (which commenced in 2007) illustrates how ineffective a development agency is when it does not own any land in the area it has been tasked with developing.
59. When the Tāmaki Redevelopment Company (TRC) was established in 2012 with a mandate to transform Tāmaki, it was not given ownership of any public land, including in particular the 2,800 state houses that Housing New Zealand Corporation (HNZC) owned in the area. The result was that HNZC continued to own the land that TRC was charged with developing. This generated significant difficulties because TRC and HNZC had different approaches to risk and development.

60. Without land ownership, TRC was limited to progressing its development mandate through influence alone. As a result, the project struggled to make progress. For this reason, in 2015 the previous National-led government transferred this land from HNZN to TRC.

Implications

61. As in Tāmaki, there would be implications for any existing public landowners if a development project is established that requires the UDA to own the land those entities currently hold in the project area. For this reason, in order for the UDA to be a delivery organisation, an important threshold issue would be how to provide it with Crown land that is currently owned elsewhere in the Crown and the implications that raises.
62. While many different Crown departments or entities own Crown land in urban areas (e.g. NZTA, Education, Defence), when considering the potential for urban development, the key landowning entities are Housing New Zealand Corporation (HNZN), TRC in Auckland and Ōtākaro in Christchurch. Thus, a useful way to consider the implications of establishing the UDA as a full delivery organisation is to consider what that role would mean for the land held by these Crown agencies and, by extension, what their ongoing role in respect of that land would be (if any).
63. Consider HNZN's land portfolio in Auckland, where it owns approximately 20,000 land parcels comprising over 1,000 hectares. The scale and location of those landholdings mean that, for most development projects to be successful in existing urban areas of Auckland, the HNZN land inside the project area will need to play a material role in the development. The implication of the UDA delivering these projects is that some means would need to be found for the UDA to own the relevant HNZN land. In turn, that raises a range of significant organisational and operational issues.
64. Consequently, in order for the UDA to be the delivery organisation, there would be significant implications from the need to give ownership of sufficient public land to the UDA to establish it as a full delivery organisation for any one project. As those implications would need to be explored further with the relevant agencies before any final decisions could be made, we recommend that you direct officials across the agencies to identify and advise on all the relevant issues.
65. To highlight how fundamental these issues would be, we survey some of the likely implications below, using HNZN as the example. Note, however, that this does not provide a comprehensive examination of the issues, which would need to be undertaken as part of the further work recommended above.

Finance

66. The scale of the land that would need to be considered for any one project would be worth hundreds of millions of dollars. Thus, if the Crown effectively removed the land without compensation, it would have significant balance sheet implications for HNZN. Alternatively, if the Crown paid to purchase the land, it would have significant fiscal implications for the core Crown.

Timing

67. If transferring the land is the preferred mechanism, the timing implications would need to be considered. For example, transferring the land from HNZN to the UDA only at the time

each project is established would incur repeated delay and transaction costs.² But attempting to do so when the UDA is first established, before any projects are identified, would raise questions about what land to transfer.

State housing

68. In the case of Tāmaki, the tenancy management of the state housing was transferred to TRC along with the land. Following that approach in each case would mean that the UDA would need to add tenancy management as one of its core functions. It would also mean that management of state housing would be increasingly split between two separate Crown agencies (the UDA and HNZN). Conversely, taking the land without also becoming the tenancy manager would raise the need for new leasehold arrangements between the UDA and HNZN.

Existing development agencies

69. As the above discussion has highlighted, what happens to New Zealand's existing public developers is a critical consideration. Seven public agencies already lead urban development to a greater or lesser extent in New Zealand:
- a. the development function within Housing New Zealand Corporation, a statutory Crown entity incorporated under the Housing Corporation Act 1974;
 - b. its wholly owned subsidiary, HLC (formerly Hobsonville Land Company), a limited liability company;
 - c. Tāmaki Redevelopment Company, a limited liability company owned by both the Crown (59%) and Auckland Council (41%);
 - d. Panuku Development Auckland, a limited liability company wholly owned by Auckland Council;
 - e. Regenerate Christchurch, a body corporate incorporated under the Greater Christchurch Regeneration Act 2016, jointly accountable to both the Crown and Christchurch City Council (which is disestablished in mid-2021);
 - f. Ōtākaro, a limited liability company wholly owned by the Crown; and
 - g. Development Christchurch, a limited liability company wholly owned by Christchurch City Council.
70. Apart from Regenerate Christchurch, which is an authorising and advisory body, each of these agencies has its own development functions, supported by management and staff capabilities.

Productivity Commission

71. When working on its report, *Using Land for Housing*, the Productivity Commission suggested in its draft report that a single national UDA would be preferable. Following public consultation highlighting the problems a single entity would raise with existing agencies, the Commission changed its position, concluding in its final report that a

² In Tāmaki's case, the land was worth around \$1.6b.

nationally established UDA “would be counterproductive where councils have urban development vehicles.”³

72. Given the speed with which local UDAs are being explored, the Commission felt there would be a risk of a lack of coordination or rivalry between national and local development vehicles operating in a city. It thought this would be counterproductive to the long-term positive relationship between central and local government necessary to overcome housing issues. It also noted the risk of diluting skills and resources, including capital.
73. Thus, rather than establishing a parallel UDA at the national level, the Commission concluded that central government should seek to support the activity of locally established UDAs.

Considerations

74. Auckland already has three public agencies with development capabilities. While TRC is largely self-contained in its project area, there is already the need for HNZA and Panuku to coordinate their development projects with each other (e.g. in Manukau). Adding another public development agency in Auckland will increase those coordination challenges and dilute the resources available.
75. Even if one of the Crown agencies was re-purposed to become the UDA, that still leaves Panuku as a separate public agency with operations in Auckland that the UDA will need to coordinate with for significant projects, such as the Manukau transformation. As Panuku is owned by Auckland Council, its future role cannot be determined by the Crown. Yet it is already working on development projects in which the Crown has a strategic interest.
76. The picture in Christchurch is also complicated. Regenerate Christchurch has similar authorising functions under its Act to those proposed for the UDA. But it doesn't have any project management functions. Those functions are exercised separately by Ōtākaro for the Crown, and Development Christchurch for the council. They each pursue separate development projects around the city, with Ōtākaro focussed on the key “anchor projects” and the Crown's land holdings.

Potential separation of functions

77. However, the approach in Christchurch offers an example of how a separation of functions could work to accommodate existing public developers. Rather than subsuming entities such as TRC and Ōtākaro within the national UDA, in the case of their projects the project management of those developments could continue to rest with the boards of those entities, but they could still access the more enabling development powers via the UDA. For these projects, it would reduce the role of the UDA to exercising the authorising functions only, meaning it would not be the delivery organisation.
78. Regenerate Christchurch is the equivalent of a small UDA (30 people) that only exercises the authorising functions set out in its statute. In contrast, the project management functions are exercised by Ōtākaro and Development Christchurch on the land they own.
79. In the same way, project management functions could be allocated to Crown and council developers for the projects they are already leading, based on the land they already own.

³ *Using Land for Housing*, 2015, Finding 12.4, p304.

In Auckland, this would mean that TRC for the Crown, and Panuku for the council, would have the potential to exercise the project management functions, leaving the national UDA to undertake the same more discrete role as Regenerate Christchurch in these particular cases.

80. But the Christchurch experience highlights one additional difficulty. By recognising and empowering separate Crown and council developers, the approach doesn't address how to coordinate Crown and council activity in a single development project. We return to this issue further below as we consider how a national UDA will work with local communities and local government.

Local input to decision-making

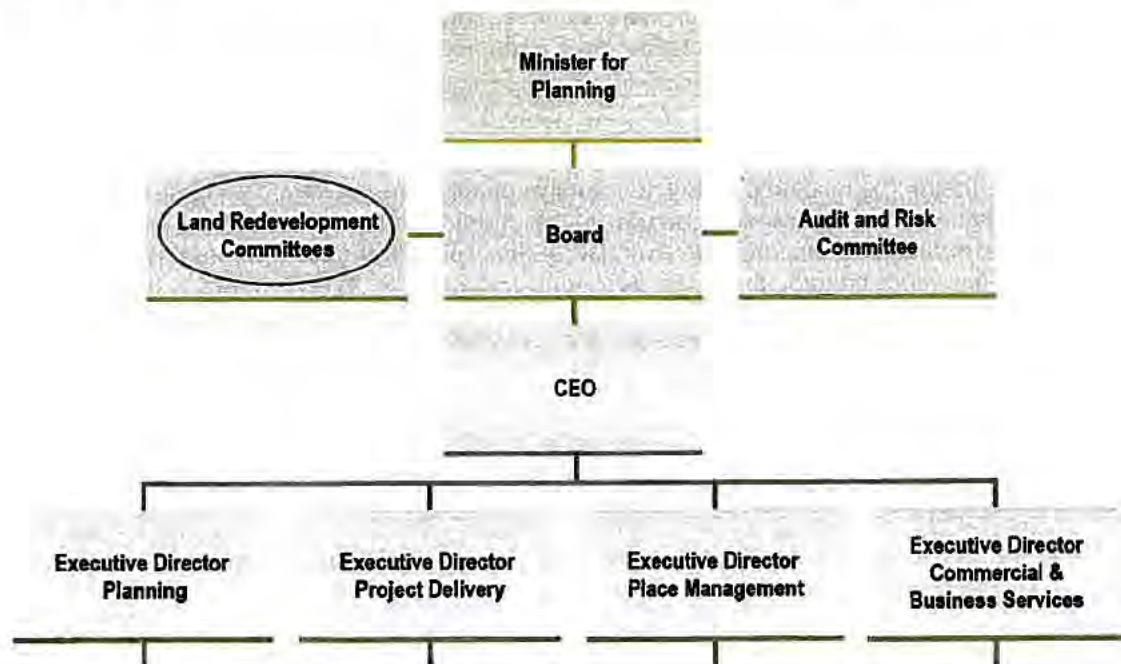
81. The first of these issues is how to manage the tension between the UDA, whose board and executive is located in one part of the country and appointed through a central government process, and the exercise of more enabling development powers in development projects that are established and pursued in other parts of the country. For example, a single national board sitting in, say, Auckland, may be called to make critical decisions over complex development projects in local communities as far away as, say, south Dunedin.
82. At one level, this is an issue of internal organisation that can be resolved by the "Housing Commission's" first board and chief executive and amended as required thereafter, without any need for legislative solutions. At this level, the challenge is to introduce management systems that appropriately address the challenge of having a national board and executive who are unlikely to be familiar with local issues in each of the cities where a development project is established.
83. The New Zealand Transport Agency (NZTA) addresses the issue at this level by having 10 local offices around the country and by appointing four "Regional Relationship Directors" to the senior leadership team, whose role is to maintain NZTA's strategic alignment and reputation within their particular region.
84. But at another level the issue is how to ensure appropriate local input to decision-making in a body that has extensive powers over development in local areas. If this is desired, then the new legislation may benefit from provisions that provide for that input. Thus, the issues at this level are whether to provide for local input to decision-making and if so how.

Australia

85. The urban development authorities in Australia confront the same issue on a state-wide basis.
86. In Western Australia, in addition to establishing the Metropolitan Redevelopment Authority ("MRA"), the equivalent legislation also requires "land redevelopment committees" to be established for each project area to enable community and local government involvement in the development and delivery of the development project.
87. Like the board of the MRA, the Minister also appoints the members of each committee, one of whom must be an existing member of the MRA's board. But it is the MRA that

“must establish and name a land redevelopment committee in respect of each redevelopment area;”⁴ and the committee only has the functions that the MRA chooses to delegate to it,⁵ although these can be extensive, up to and including planning and consenting powers.

Figure 2: Operating structure of the Metropolitan Redevelopment Authority in Western Australia:



88. A weaker version of the same model is used in Queensland, where the equivalent legislation provides for “local representative committees”⁶ whose functions include advising and making recommendations to the Minister regarding the impact of proposed development. And in South Australia the legislation requires the authority to establish a “community reference panel” whose role is to provide considered advice and feedback to the authority on planning and development within the project.

Considerations

89. There are extensive opportunities for local input to the development plan provided in the proposed process. Thus, the issue is whether to provide for local input to decision-making at other points in the life of the development project. The advantage of doing so is that it would provide an avenue for local input during the long period in which the UDA is delivering the plan, which will include key decisions about when and how to exercise the development powers that have been approved. At the moment, the proposed process

⁴ Section 26(1) of the Metropolitan Redevelopment Authority Act 2011.

⁵ Section 27.

⁶ Economic Development Act 2012.

incorporates significant local input during the 1-2 years in which the development project is established and the plan is prepared, but not during the 10-20 years of delivery.

90. The disadvantage is that a local advisory committee that is appointed by the Minister or the UDA will struggle to fully represent the local community. No matter how good a cross-section of the community, any group of individuals will only be able to offer the local insights and wisdom that they have. While that will be highly valuable for some purposes, it won't be for others, and so is unlikely to provide comprehensive local input to decision-making. For key decisions, the UDA is likely to be better served by establishing and maintaining a dedicated engagement programme with the local community that keeps them updated and invites input on critical upcoming decisions. That way, local stakeholders can choose which issues to engage with based on their particular interests. Thus, we don't recommend the legislation include any local advisory committees, but does include some expectation of regular engagement.

Local government representation

91. Beyond the opportunity for input into decision-making is the question of local government representation on the decision-making body itself. Whereas the discussion above considered whether to include local committees that sit alongside or advise the main decision-making body, the next issue is whether to provide local government representation on the UDA itself. (For now, we refer to local government generally, but note that the legislation would ultimately need to differentiate between territorial authorities and regional councils.)
92. Looking at the current board of NZTA as an example, the eight members comprise four members from Auckland, three from Wellington and one from Queenstown. If the members of the UDA board had the same geographic profile, the same issues of local connection and knowledge would be raised for development projects located in cities that board members are less familiar with.
93. But of more significance than local connection is the issue of local democracy and how appropriate it is for a national board to be making decisions that have significant local impacts. Looking again at NZTA as an example, the Land Transport Management Act that establishes NZTA also requires the appointment of "regional transport committees" that are empowered to prepare regional transport plans for approval by regional councils, thereby providing significant involvement in key decision-making by regional representatives.⁷
94. Given the authorising functions proposed for the UDA, which include preparing the development plan and recommending it to the Minister, the question is whether there should be a similar role for local representatives in the UDA that provides for local representation and accountability.

Local government involvement

95. Allied to that broader issue of local representation is how to provide for local government involvement in decision-making. In addition to the considerations of local democratic

⁷ Section 106.

accountability, local government is particularly important to development projects for two further reasons:

- a. Land ownership: the better outcomes likely to flow from being able to include the land that local government owns within the project area in addition to all the Crown land.
 - b. Infrastructure: the likely need for additional capacity to support large-scale developments from the network infrastructure that local government operates and funds.
96. Before local government agrees to contribute its land to a project, or agrees to contribute future capital towards the cost of greater infrastructure capacity, it will want to secure appropriate representation at the decision-making level. Thus, if the Government wants local government investment in a development project, providing local government representation will be unavoidable. The only question is whether to provide for that representation on the UDA's board (and thus provide for it within the new legislation), or to rely on the UDA establishing separate agreements with the relevant local government on a project-by-project basis.

Feedback

97. Given the likely need to partner with territorial authorities, last year's discussion document proposed that the legislation provide for a new type of statutory entity that could represent and be accountable to both arms of government.
98. This is the approach that was taken to the organisational form of Regenerate Christchurch, which is a body corporate that was established under the Greater Christchurch Regeneration Act, but is not a Crown entity. Three members of the board are appointed by each of the Crown and council and the seventh member is appointed by the Minister on the recommendation of Te Rūnanga o Ngāi Tahu.
99. In their feedback to this proposal, stakeholders indicated a strong desire for UDAs to be accountable to both central and local government and generally welcomed the idea of a new type of statutory body through which to do so.

Considerations

100. One of the most significant problems the proposed legislation needs to overcome is the challenge of coordinating multiple actors to deliver a complex development project. In part, the proposed development powers overcome this problem by consolidating decision-making powers in the UDA, removing them from other organisations. But that solution only goes so far. For the reasons noted above, we anticipate that in most cases the UDA will still need to involve local government in (at least some) decision-making.
101. One option would be for the UDA to negotiate separate joint ventures for each project with local government that establish what each party will invest and the decision-making rights that their investment will give them. This would usually involve a joint decision-making process that operates under the terms of the joint venture agreement. While the authorising functions could not be allocated to that process (as it wouldn't be recognised in the legislation), the UDA could still agree to submit at least some of the project management functions to this process.

102. The disadvantage of this approach is the time it will take to negotiate a joint venture with the relevant local government in each case. While negotiation will always be required on whether local government will support the project and the amount of investment it will make, the need to also negotiate the governance arrangements that reflect that investment is likely to be a source of significant additional delay. There would be the prospect of having powerful legislation that establishes a large new Crown entity with significant development powers across a wide range of matters, but whose ability to deliver is held up by the need to repeatedly negotiate governance arrangements with local government.
103. The alternative is to provide a mechanism within the new legislation that automatically provides for local government involvement with decision-making when it has agreed to support the project. This would involve a decision-making body that is appointed by both central and local government and that is accountable back to each set of elected representatives. Representation could vary depending on the extent of investment that each party makes.
104. The disadvantage of this approach is the added complexity required for the governance structure of the UDA. But we think this complexity is warranted by the time saved through avoiding the need to negotiate the terms of governance for each separate development project. We offer an option for how to structure this approach in the section on structural options. However, in essence, it would require a separate decision-making body for at least each region (and potentially for each territorial authority or even project) that is allocated all the UDA functions (i.e. both authorising and project management functions). But there would still be only one chief executive and staff that would support and report to each decision-making body.

Tāmaki Redevelopment Company

105. TRC is a working example of how this approach could operate. As a company jointly owned by the Crown and council, the board of TRC is appointed by a vote of its shareholders, with each party also having the right to directly appoint (or remove) one director each. Given the Crown's greater investment and majority shareholding, its interest means it can veto all proposed directors except for the one that council appoints directly. In the same sort of way, the new legislation could provide for the appointment of board members to a jointly accountable board to broadly reflect the extent of each party's investment.
106. In the same way that TRC has responsibility for owning the Crown's land in Tāmaki and using its ownership to deliver the development outcomes its shareholders are seeking, so the jointly accountable board could be given all the project management functions and ownership of public land in a project area. In addition, the legislation would allocate the board with the new authorising functions, so that there is no separation of powers.
107. In TRC's case, this leaves no role for a national UDA, given that TRC already has its own chief executive and staff. But that wouldn't be true of other development projects. In these cases, the jointly accountable board would undertake all the decision-making needed for both the authorising and project management functions, but the executive and staff that implement those decisions could be that of the "Housing Commission".

Appointing UDA functions to other entities

108. The last issue is whether to include a power in the new legislation to appoint an entity other than the "Housing Commission" with the authorising functions (as well as the project management functions). For obvious reasons, this entity would need to be a public entity. Private sector organisations could not be considered.
109. If only because it would enhance the flexibility of the new legislation, we think including this option would be a good idea. While it may never need to be used, having the power available would save having to legislate if the need did arise.
110. An extreme scenario in which having this option available could be useful would be one in which the UDA's board and/or executive becomes dysfunctional for some reason. Rather than sending in a commissioner to inherit the UDA functions, it might be preferable to appoint another entity as a replacement UDA (such as Panuku Development Auckland), in which case being able to appoint it with UDA functions would be advantageous.
111. More immediately, however, a reason this power could be desirable is to provide a vertically integrated alternative to the separation of functions floated for existing development agencies, above. Rather than undermining the effectiveness of the new legislation by having the UDA only exercise the authorising functions while the likes of Tāmaki Redevelopment Company and Ōtākaro are appointed with project management functions, if folding all of those organisations into the UDA is impractical, a better choice may be to simply turn them into separate UDAs in their own right. It would deliver the advantages of a single vertically integrated entity, ensure a level playing field with the "Housing Commission" and avoid the need to reorganise these entities.

Structural options

112. This section assesses four structure options that collectively respond to most of the issues above.
113. As a Crown Agent, the Housing Commission will be controlled by a board who must exercise powers in accordance with the Crown Entities Act 2004. However, within this framework there is scope for different options to distribute the relevant functions.

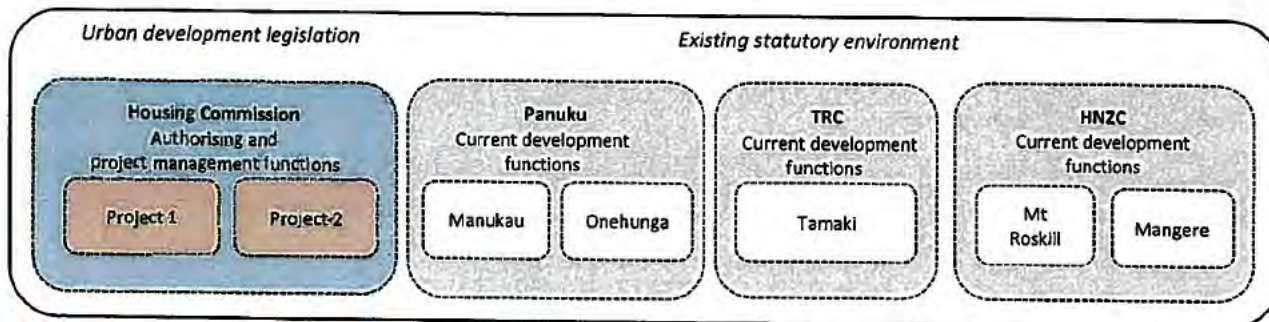
Separation of functions

114. The first two options illustrate the effect of being able to allocate the project management functions separately from the authorising functions.

Option 1: No separation of functions

115. Under the first option, the UDA would exercise all the authorising and project management functions for every development project established under the new legislation. In this scenario, no other projects could access the benefit of the legislation, as illustrated in figure 3 below.

Figure 3: Single entity exercising both authorising and project management functions



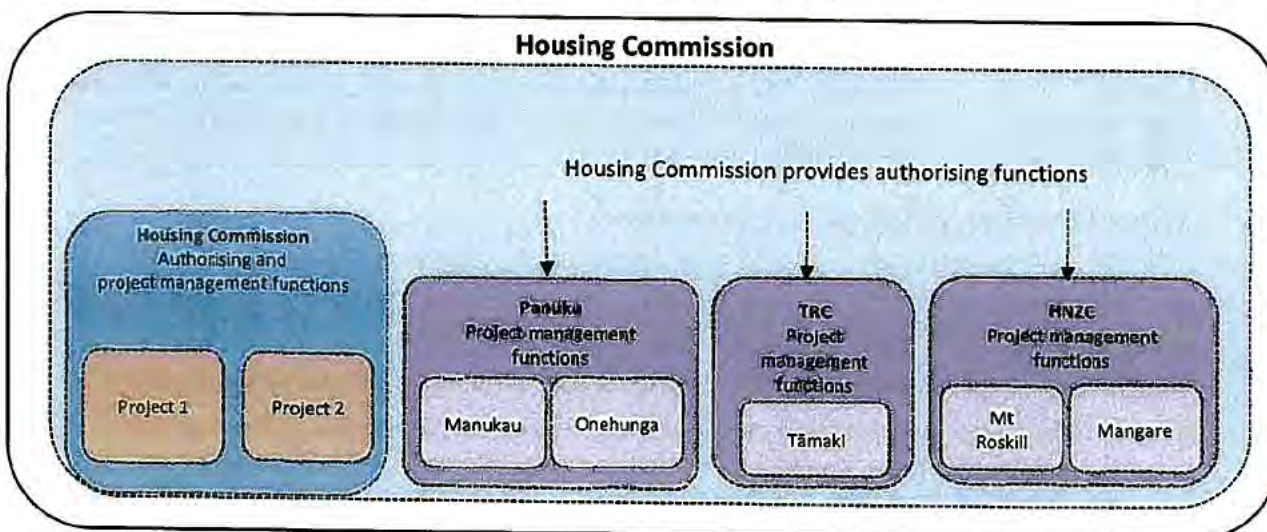
116. This option is not preferred as we consider it to be too limiting. However, we have included our analysis of it in Annex 2.

Option 2: Separating functions (Recommended)

117. To incorporate other projects, including ones that are already underway, the UDA could also have the authorising function for these other projects, but not the project management functions, which would be allocated to a separate development agency (scenario 2). For these projects, the authorising functions would be separate from the project management functions. The option to separate these functions is illustrated in Figure 3 below.

118. Note that, while the diagram illustrates public development agencies, this is the approach that would also be used to enable private sector developers to access the benefit of the legislation.

Figure 4: Separation of authorising and project management functions



119. Under this option, the UDA could still manage projects directly (as in option 1) but could also work in partnership with new or existing development entities (as for Scenario #2 shown in figure 1 on page 11). This would mean that, if the Government preferred,

existing entities such as TRC and Panuku would be able to access the benefit of the more enabling development powers in the new legislation via the UDA's authorising function.

120. Our analysis of this option is set out in the following table.

Table 2: Option 2 considerations

Issues	Separation of functions
<i>Authorising function</i>	National board only.
<i>Project management function</i>	An independent project management entity for each project.
<i>Governance coordination with local government & Role of local government</i>	Bespoke agreement would be required on governance for each project. However, local government could potentially have representation on the national board by agreement. The role of local government is unclear. They would have no role in authorising functions. However, this could be mitigated by representation on the national board and/or a role in local project governance. Local government's role would be high in its own projects (e.g. Panuku), but by agreement in others. There are a number of options for the makeup of the board, to represent both central and local government, including permanent representation by central government-appointed members.
<i>Ownership of public land</i>	The ownership of public land would vary. Bespoke agreement required on control for each project.
<i>Interactions with existing development agencies</i>	Under this option, existing entities can remain independent, but with access to the legislation via the UDA. Existing entities would not have to be disestablished; rather they are able to retain a separate board for each project manager.

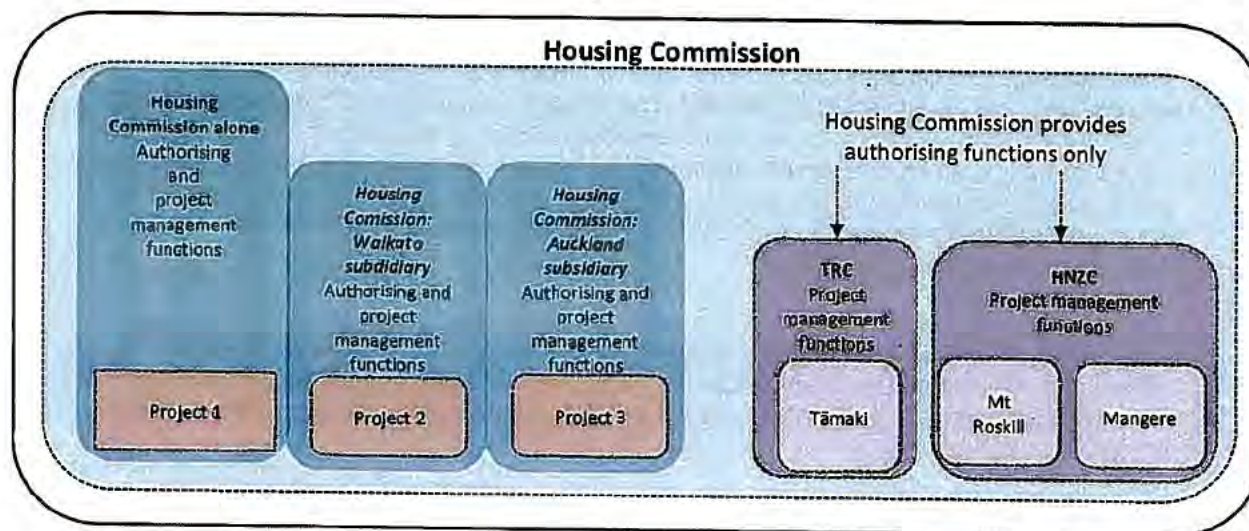
Wider allocation of authorising functions

121. The authorising functions relate to the UDA's role in exercising the more enabling development powers in the new legislation. The following two options illustrate different potential methods for allocating the authorising functions to entities other than the UDA.

Option 3: Jointly accountable decision-making (Recommended along with option 4)

122. A different way to incorporate other projects would be to allocate both the authorising and project management functions to a jointly accountable decision-making body that comprises board appointments by both central and local government, but is still part of the UDA. The ability to separate the authorising and project management functions is still possible if desired (purple boxes); as is the ability for the UDA to undertake its own projects without a joint body (left hand box: "Housing Commission alone"). This option is illustrated in figure 5 below.

Figure 5: Jointly accountable decision-making



123. This option enables existing entities to access the benefits of the powers in their current forms, while also empowering local representation through jointly accountable decision-making. The role of the national board (which wouldn't have any local representation) would be to take a national strategic perspective and represent the interests of central government. The authorising functions would be exercised by the jointly accountable bodies, comprised of local appointees that sit alongside representatives of the national board. In this way, some (or all) of the members of the national UDA board would sit on the board of each jointly accountable decision-making body, while the balance of each body would be made up of members appointed by local government.
124. This model would enable direct local government involvement in the decision-making and exercising of the powers, which will help to obtain (and maintain) buy-in to the development project and help establish and maintain relationships with local authorities. The machinery for setting up the decision-making bodies and allocating them with the UDA functions can be included in the legislation. This would create an extra layer of complexity within the legislation, but should avoid the delays inherent to negotiating a separate joint venture agreement with local government for each project.
125. In effect, the jointly accountable decision-making bodies would make decisions on each project, performing the authorising function. If local government does not support the project, the national board could still perform the authorising function for projects by itself, where central government still wishes to proceed with a development project. But, in general, the national board would only have a strategic and advisory role for the country (while retaining greater roles for any wider suite of functions of the "Housing Commission").
126. Jointly accountable decision-making bodies would be able to take on a wide range of projects that vary in size and scale. Allowing these bodies to have responsibility for more than one development project would maximise the benefit delivered by the time and

money invested in establishing them, while allowing development projects that meet differing needs to be established.

127. Having the option of jointly accountable decision-making would have the benefits of economies of scale. It would allow lessons learned to be transferred between areas and costs to be spread across multiple projects with expertise in large-scale, complex urban development. It would also enable efficiencies across multiple development projects and potentially more development projects to be established. It would also allow for smaller scale, but still complex, development projects to be established thereby enhancing the effectiveness of the legislation.
128. Additionally, it is crucial to have local government buy-in to enable the success of projects, and having them involved in decision-making helps to do this. Without a partnership or other local government involvement, local authorities that oppose a project could still potentially find ways to undermine a development project. Our analysis is summarised in the following table.

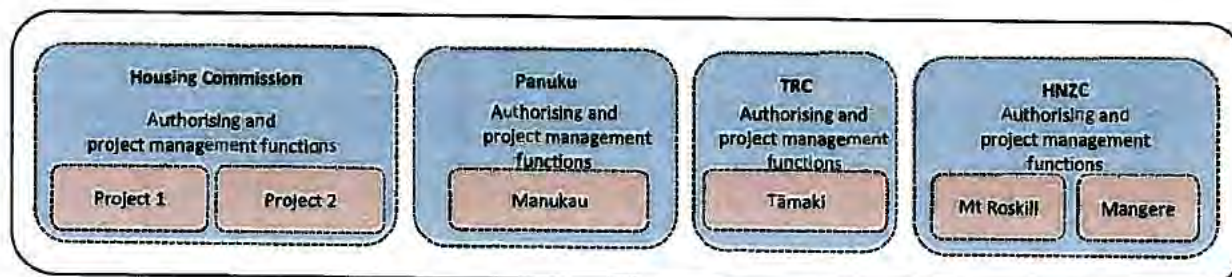
Table 3: Jointly accountable decision-making

Issues	Jointly accountable decision-making
<i>Authorising function</i>	Jointly accountable decision-making bodies
<i>Project management</i>	Either the jointly accountable body, or an independent project management entity.
<i>Governance coordination with local government & Role of local government</i>	The jointly accountable bodies could potentially identify and prioritise the development projects across their region/area and make development project proposals to the Housing Commission. The composition of the bodies would include local government appointments, with further work required to distinguish between territorial authority and regional council appointees. To protect central government interests and maintain a strategic perspective across projects, members of the national UDA boards would also sit on the jointly-accountable decision-making body. Details of which organisations could appoint which members and how many members can be on each board would need to be set out in the legislation to ensure consistency across the country. Local government's role in project management would be high in projects governed by a jointly accountable body.
<i>Ownership of public land</i>	Bespoke agreement on ownership would be required for each project.
<i>Interactions with existing development agencies</i>	Existing entities can either remain independent with access to the legislation via the UDA's authorising functions (whether exercised through a jointly accountable body or not) or merge with the jointly accountable body.

Option 4: Multiple entities with UDA functions (Recommended along with option 3)

129. The other method to allocate the authorising functions to other entities would be for the legislation to provide for the establishment of more than one UDA. This would provide the Government with the option to allocate both the authorising and project management functions to other entities if desired, provided that they are publicly controlled. We wouldn't anticipate this being the default approach, but it may be useful as a means for incorporating existing public developers in the new scheme. This option is set out in Figure 5 below.

Figure 5: Multiple entities with UDA functions



130. Like TRC, there is a scenario in which Panuku Development Auckland can apply to the national UDA to access development powers for those of its projects that meet the criteria. But there may also come a time when it would be useful to establish Panuku as a UDA in its own right under the legislation.
131. Other councils may also establish similar council controlled organisations in future. For example, Wellington City Council has already undertaken a significant assessment of whether to establish one in the capital.
132. There is the potential that the distance between a national governance function and the coordination needed for a large and complex project leads to problems with delivery. If this occurs, it could be useful for the legislation to retain the option to establish a separate authorising function for these projects that is also a separate UDA. This would enable that entity to authorise development powers for its own needs.
133. With particularly large and complex development projects, such as Tāmaki, the coordination of the project is likely to benefit from governance that is focussed on the project. Thus, this option would enable TRC to become a UDA itself, rather than just have access to the benefit of the powers. Our analysis is summarised in the following table.

Table 4: Multiple entities with UDA functions

Issues	Multiple entities with UDA functions
Authorising function	Multiple independent boards. The Housing Commission is just one urban development authority.
Project management	Independent entities.

<i>Governance coordination with local government & Role of local government</i>	Existing entities can become UDAs. Local government will have a high role in its own projects, including authorising functions, and by agreement in other projects.
<i>Ownership of public land</i>	Ownership of public land varies. Bespoke agreement required on ownership of land for each project.
<i>Interactions with existing development agencies</i>	Existing entities remain independent with direct access to the legislation.

134. Annex 3 contains our summary of analysis of the four organisational options for the proposed legislation.

Annexes

- Annex 1: Summary of responses on organisational form
- Annex 2: Analysis of option 1
- Annex 3: Summary of options analysis

Annex 1: Summary of responses on organisational form

In February 2017, the previous Government published a discussion document on Urban Development Authorities. The document sought feedback on proposed new legislation to enable central and local government to accelerate and support urban development projects, overseen by urban development authorities.

The following table summarises feedback we received about the proposed organisational form of urban development authorities.

<i>Organisational form</i>
• There were suggestions for regional, city or district-wide UDAs. • There was a desire for a UDA to be accountable to both central and local government.
<i>Governance and monitoring of a UDA</i>
• Feedback requested clarity on how a UDA board would be appointed. • There were suggestions for both local government representation and Māori representation. • Feedback noted the need for a more collaborative relationship between the two arms of government. • There was a desire for local government to be given a role in the monitoring and evaluation of UDAs and the system as a whole.
<i>That a UDA can be both a regulator and a developer</i>
• There was some concern that UDAs should not act as developers and, instead, should only take on regulatory functions. Reasons included the challenge of non-expert UDAs being developers, the risk of the misuse of power without proper regulatory oversight, and the loss of control and accountability of the UDA. • Those concerns led to the suggestion that UDAs be given the ability to delegate those functions, but other submitters were opposed to UDAs having the ability to delegate.
<i>Project identification, assessment and establishment</i>
• There was concern about the capability of central government to identify and assess potential projects. Submitters suggested an independent expert panel involved in urban environments could be established to work in collaboration with central and local government to assess and recommend projects to Ministers/TAs. • Māori seek a co-governance role in determining which projects are established. • Infrastructure providers wanted to ensure they are involved in the process from an early stage. • Regional councils also want to have a defined role at the establishment stage.

Central government role

- UDAs need the ability to get central government agencies to the table.
- There was concern at how difficult it is to get meetings, engagement or progress with the Ministry of Education, DHBs and Housing New Zealand on their plans for land.

Regional councils' role

- There were many comments about the role of regional councils and the value they could provide throughout the process. They have key responsibilities for water and air quality, flood protection and natural hazards. Many have a major regional planning role with their territorial authority counterparts.
- Regional councils have a critical role in public transport provision under the Land Transport Management Act 2003 and should:
 - have a greater involvement in UDA processes; and
 - be actively involved in the establishment and development plan processes to ensure projects that require changes to public transport systems and networks are planned and implemented in an integrated way.

Territorial authorities' role

- The support of territorial authorities to the overall proposal is predicated on the power to veto any proposed urban development projects.
- Submitters noted that even if the veto power was removed, having the agreement of both parties to collaborate will be necessary to ensure a project's success.
- As a quid pro quo for the veto power, submitters suggested that TAs should be required to commit to certain aspects of the project at the establishment stage. For example, a shared funding arrangement could help prevent the possibility of a second form of veto (lack of funding, or withholding funding) at a later stage.
- There was concern that the potential use of the veto will cause the process to become overly politicised at the establishment phase, with suggestions that the Minister have the power to appoint an independent third party to resolve disputes between central government and territorial authorities, or that there be principles in the legislation that outline a negotiation process.
- There was concern that the prior agreement of regional councils is not required, when regional councils can provide an integrated regional perspective on development projects.

Annex 2: Analysis of option 1

Under this option, the UDA would take on all project management functions, including those of existing Crown agencies such as Tāmaki. This would require changes to the structure of these existing organisations and their functions. Although option 1 provides a simple structure for the UDA, it does not enable existing entities the ability to benefit from the powers without significant disruption to their existing entity forms. Our analysis of this option is set out in the following table.

Table 5: Analysis of option 1

Issues	Single entity with UDA functions
<i>Authorising function</i>	Single national board. This option would enable the UDA to source the best talent and build expertise in undertaking projects at scale. However, this would need to be combined with local knowledge and expertise on individual projects. There would be consistency across projects, and a single body would have the ability to diversify holdings, take a strategic view across the range of developments, and manage risk.
<i>Project management</i>	Single national board.
<i>Governance coordination with local government & Role of local government</i>	No set structure to assist with local government coordination. Therefore, a bespoke agreement on governance would be required for each project. Local government voice may be also diminished if all the decisions are made by the UDA. However, local government may be given a role in approval or review of development projects in their local area (with a reserve power for central government to override any opposition on a case-by-case basis).
<i>Ownership of public land</i>	Central government would own the land. Bespoke agreement required on ownership for each project.
<i>Interactions with existing development agencies</i>	Under this structure, only the UDA would be able to access the development powers. This would exclude current entities (e.g. Tāmaki and Panuku) from becoming UDAs or accessing the benefits of the powers unless those entities were disestablished and subsumed within the UDA. However, disestablishment may not be an option for a council-controlled entity like Panuku. For an existing entity like Tāmaki, removing the board and subsuming its operations within the UDA risks losing some institutional knowledge if the personnel and systems are not retained. However, there may be efficiency gains in drawing all the projects together under one governance structure. Nevertheless, this could disrupt the existing governance regimes by replacing the existing boards with the UDA board and would cause unnecessary delays in projects that are well underway and working well.

Annex 3: Summary of options analysis

Our analysis of the four options are summarised in table 6 below.

Table 6: Summary of option analysis

Criteria	Option 1: Single entity with UDA functions	Option 2: Separating authorising and project management functions	Option 3: Jointly accountable decision-making	Option 4: Multiple entities with UDA functions
<i>Governance (board)</i>	National board	Independent entities	Housing Commission with regional subsidiaries	Independent entities
<i>Authorising Function</i>	National board only	Housing Commission	Housing Commission by potentially delegated to regional subsidiaries	Multiple independent boards
<i>Governance coordination with local government</i>	Bespoke agreement required	Bespoke agreement required	Permissive arrangements in legislation	Ready-to-go arrangements in legislation
<i>Control of public land</i>	Central government Bespoke agreement required	Varies Bespoke agreement required	 Bespoke agreement required	Varies Bespoke agreement required
<i>Interactions with existing development agencies</i>	Either disestablished and merged with the national UDA or remain independent without access to the legislation	Remain independent, but with access to the legislation via the national UDA	Remain in current form with access to the legislation or merge with the regional subsidiary of Housing Commission at an appropriate point.	Remain independent with direct access to the legislation

<i>Local government role</i>	None / low role in authorising functions Own projects are out of scope None / low role in other projects	No role in authorising functions unless delegated by the Housing Commission to a regional subsidiary. High in its own projects By agreement in other projects	Role in authorising functions High in its own projects By agreement in other projects	High in its own projects, including authorising functions By agreement in other projects
<i>Role of mana whenua</i>	Limited by central governance role	Some	Some, with potential for a relationship or membership on regional subsidiaries	Varies



Urban development legislation - organisational issues

MBIE's recommendations in briefing note 1022 17-18

New Zealand Development Agency

- It is recommended that because the functions of the 'Housing Commission' extend beyond just housing that for the purpose of the legislation, the Housing Commission is renamed the New Zealand Development Agency.
- The new legislation provide for the organisation to adopt (and change) a different trading name from that used in the legislation if it so desires.

Recommendation a

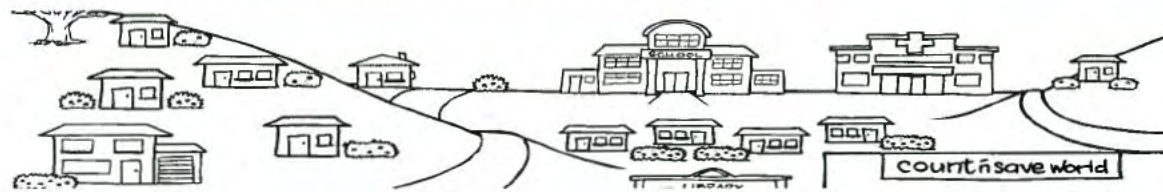
Ownership of public land to procure the development outcomes

Recommendations e and f

The key implications of establishing the national UDA as a powerful delivery organisation are:

- in existing urban areas, the UDA would need to own sufficient public land to be able to procure the development outcomes the Government is seeking
- public land in existing urban areas is currently held by other departments and Crown agencies
- changing the owner of that public land would have implications for its current owner.

It is recommended that you direct officials across relevant landholding agencies to report back identifying the issues that would arise if the UDA needed to own land currently held by other public agencies and assess the options for doing so.



Possible functions of the UDA

Recommendations b, c and d

It is recommended that

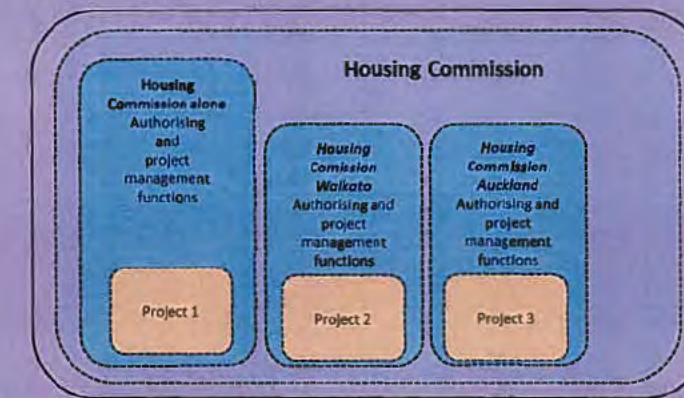
- Scenario #1:** the national UDA have both authorising and project management functions that enable it to both:
 - authorise the use of the more enabling development powers; and
 - undertake the management and operational functions required to deliver the development outcomes the Government is seeking
 - the national UDA have the discretion to exercise the developer functions for particular developments within the project area (which means financing that development and taking on the marketing risk)
- Scenario #2:** the new legislation enable the Government to appoint an entity other than the UDA to exercise the project management function (but not exercise the authorising functions)

Functions	Scenario #1	Scenario #2
Authorising	Housing Commission	Housing Commission
Project Management		Public or private entity that has effective control of the land
Developer		Private / public sector developers
Construction	Private sector	Private sector
Monitoring	Government department (with territorial authorities by agreement)	Government department (with territorial authorities by agreement)

Local government representation

Recommendation g

It is recommended that where the relevant local government has agreed to support a development project, the new legislation automatically provide for both the authorising functions and project management functions to be exercised within the national UDA by a decision-making body that is jointly appointed by, and accountable to, central and local government in broad proportion to the extent that each party is to invest land or capital in the project.



AND

Multiple UDAs

Recommendation h

It is recommended that the new legislation enable the government to appoint any publically controlled agency to be a UDA, with both authorising functions and project management functions.

