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

Urban Development Authorities Consultation

NZIS is the professional body representing New Zealand's surveying and spatial/geographic information system professionals. We have approximately 1300 members with 15 branches throughout New Zealand supported by a National Office in Wellington with a CEO and five staff members. Governance is provided by an operational board and an elected president and councillors. NZIS is an internationally recognised professional organisation that promotes growth, innovation, and excellence in all facets of surveying and spatial in New Zealand. Our mission is to lead and foster a vibrant sector that allows the surveying and spatial profession to grow and positively influence our communities.

Our members have carefully considered this important piece of legislative and regulatory change and are pleased to provide you with our comments.

Comments on the proposal in general

NZIS supports the proposal to establish legislation allowing the creation of Urban Development Authorities (UDA) for specific projects and with powers to be chosen from the tool box described in the proposal.

We would not want to see UDA's being established where the private sector has the capacity and capability to undertake projects. We believe the establishment of an UDA must only be when it is clear there are impediments to existing entities being able to deliver good outcomes for a project that is in the public interest. Examples of this could be:

- the requirement to acquire land,
- existing district and regional plan documents making it difficult to achieve good design outcomes,
- difficulties in coordinating and reaching agreement with multiple agencies and utility operators, and
- where bulk infrastructure is not ready and this is preventing desirable development from proceeding.

Although not intended in the legislation, there is a risk the government may “crowd out” the private sector if it believes it is in its interest to do so. NZIS would like to make sure that the provisions requiring the identification of a “clear need” be established before the UDA tools are used.

If overused, UDA’s may be perceived as a tool to ride roughshod over existing public and private interests.

The mere fact that this UDA legislation exists will help existing developers, as parties will know that if they take steps to prevent a desirable development from proceeding, Government has these tools available. They will be more likely to negotiate a solution in the knowledge that if they don’t, they could be forced into it under a UDA.

Comments on Individual Proposals

Proposals 1-10

NZIS supports these proposals. They are well thought out and fit for purpose.

Proposals 11-14

NZIS supports these Proposals. Our comments are set out below.

Proposal 11d mentions “live and work”. We would like to see this phrase read as “live, work and play” as it better captures a holistic lifestyle and is inclusive of young people.

We do not see a need to define “urban” in the context of this legislation.

Significant resources will be required to establish an UDA. How will the establishment of UDA’s be funded?

Will the government establish a consultative panel or advisory group that could provide governance for the development, management and monitoring UDA’s?

Proposals 15-20

NZIS supports these Proposals.

We agree with the criteria noted as being triggers to establish UDA’s.

Proposals 22-33

NZIS supports these Proposals.

Independent Commissioners are frequently mentioned in the Discussion Document. Will Commissioners be accredited by The Ministry for the Environment (MfE)?

Proposals 34-39.

NZIS supports these Proposals. We particularly like the priority given to the strategic objectives in the statutory decision making process.

Proposals 40-49

NZIS supports these Proposals.

Proposals 50 -55.

NZIS supports these Proposals

Proposals 56-71

NZIS supports these Proposals

Proposals 72-87

NZIS supports these Proposals. Our comments are set out below.

We support the proposal that land can be assembled by negotiated agreement at any time by a UDA. It should not have to wait until a development plan is agreed to do this. It is more desirable to have land secured before a development plan is finalised. The UDA will then know at an early stage if it must use the compulsory acquisition powers and can plan accordingly.

Compulsory acquisition is a crucial power to have available in the UDA toolkit and we support that it should only be able to be exercised through the current processes by LINZ.

Proposal 88. - Subdivision

It's not clear what powers if any UDA's will have to override the current subdivision requirements in the RMA. For example – will it allow subdivisions to be Permitted Activities without the requirement to obtain a Certificate of Compliance? (We think they should be if they are simply to formalise legal boundaries around existing Land Uses). How will sections 223 and 224 be dealt with? We think there needs to be a lot more information put out on this matter before the Bill is prepared.

New Zealand Institute of Surveyors is happy to assist MBIE in considering the implications of any change of processes contemplated under this proposal.

Proposals 89 to 96 – Reserves

The Proposals are silent on Esplanade Reserves and Strips (RMA) and Marginal Strips under the s24 Conservation Act. These must be explicitly mentioned.

We propose they should be included in those reserves that UDA's can deal with under Proposal 89 and that the UDA - in preparing its Development Plan - may provide reasons for not fully complying with RMA Esplanade Reserve provisions. However, the circumstances for this to happen would have to be compelling.

Proposals 97 111- Planning, Land Use and Consenting

NZIS supports these proposals in principle, but there is a huge amount of detail in making them work together with the interaction of Development Plan provisions and existing District Plans. Preparing Development Plan provisions will be very similar the current work in preparing a Private Plan Change; our members' experience has been that these can be very time consuming.

It is good to have time pressure on processing applications. However, some proposals will be quite complex so will have to have been well socialised with the consenting authority (UDA or TA) in advance before formal lodgement to achieve the timeframes in Proposal 108.

Proposals 112 – 131. Infrastructure. Support

Proposal 125 requires compliance with Councils' Codes of Design Practice for infrastructure. Our members experience is that these Codes are sometimes out of date and not consistent with good urban design practice. We would suggest that Development Plans may override specific provisions in codes that are not helpful, or propose alternative Codes. For example, NZS4404:2010 could be proposed as the guide for subdivision and land development infrastructure as an alternative to a Council's own Code if that code does not allow the UDA's strategic objective to be met.

Proposals 132 – 145 Funding.

NZIS makes no specific comment although is in general support of these proposals.

Proposals 146-169 – Maori Interests

NZIS supports providing protection of Maori interests in relation to UDA's. It is important that Iwi groups do not see this as another way for the Crown remove their rights and mana in land after many years of hard work to settle land grievances.

Section 10

A. Criteria or thresholds for selecting urban development projects.

NZIS believes there should be criteria in the legislation but they should not be prescriptive. They need to be principles based. Some criteria could be as follows:

- Private sector cannot deliver an acceptable outcome
 - Some of the powers proposed for UDA's are required to allow development that is in the public interest
 - The development is too large or has complex public land holdings for the private sector to deliver
- B. A UDA should not be established without the TA's political approval. There might be some very limited circumstances where this is not the case, such as where more than one TA is involved and the minority affected one does not agree. These developments are likely to have significant impacts on local communities, so the community's democratic rights should not be removed without good reasons.
- C. No comment
- D. **What barriers to the private provision of infrastructure currently exist?** The main current impediments to private sector provision of trunk infrastructure is for funding construction, operations and maintenance. There are also political impediments in that people in NZ do not like to see private entities make a "profit" from services that the public see as a basic right (eg water supply).

The UDA provisions as proposed seem to include tools that overcome these impediments.

Summary

NZIS welcomes the proposal for legislation to establish UDA's to address some of the problems with providing sufficient housing and other land development at a scale that is efficient and reinforces the existing fabric in our towns and cities (ie large "brownfield" redevelopment).

There are some matters (eg subdivision and Esplanade Reserves) where NZIS members have expertise, that do not appear to have been sufficiently dealt with in the Proposal and NZIS would welcome the opportunity to assist officials in those areas as well as some of the other matters we have addressed in this submission.

Thank you for your consideration of our response.

If you have any questions about our feedback, please contact our Relationship Manager – Craig Smith, at craig@surveyors.org.nz or 04 471 1774.

Yours sincerely,



Phil Cogswell

NZIS Stream Lead – Land Development and Urban Design