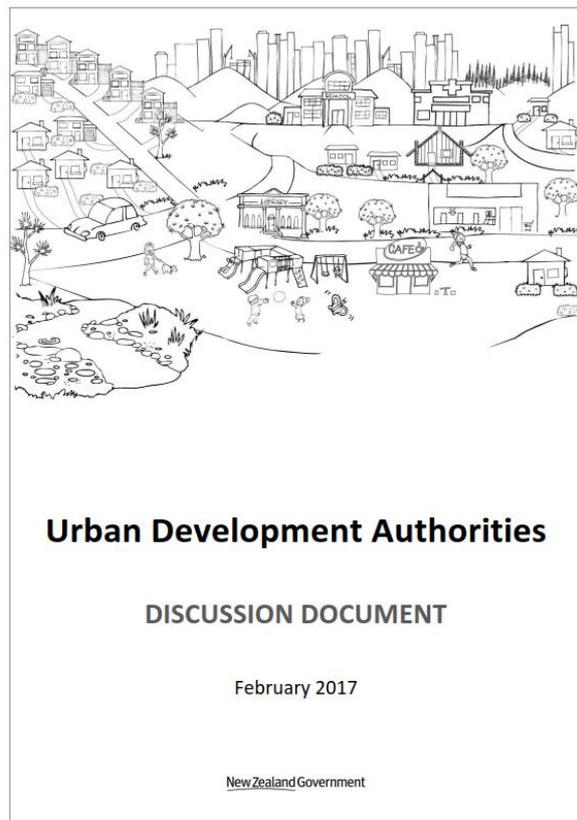


Submission by the
Greater Christchurch Urban Development Strategy Partnership on
Urban Development Authorities Discussion Document (February 2017)

May 2017



To:

Construction and Housing Markets, BRM
Ministry of Business, Innovation and Employment
PO Box 1473
WELLINGTON 6140
Attention: Urban Development Authorities consultation

Name of Submitter:

Greater Christchurch Urban Development Strategy Partnership
c/o Bill Wasley: Independent Chair

Address for further contact:

Keith Tallentire
UDS Implementation Manager
DDI (03) 941 8590
Mobile 027 205 3772
Email ktallentire@greaterchristchurch.org.nz
Web www.greaterchristchurch.org.nz

c/o Christchurch City Council
Civic Offices, 53 Hereford Street, Christchurch
PO Box 73012, Christchurch, 8154

Submission:

This is the Greater Christchurch Urban Development Strategy (UDS) Partnership's submission on the Urban Development Authorities discussion document (February 2017). The Partnership is in the process of simplifying its name to become the Greater Christchurch Partnership. The content of the submission follows overleaf.

Submissions from individual UDS Partners are also being made and may cover more specific issues relating to their territorial areas or functions.

Signed:

A handwritten signature in black ink, appearing to read 'Bill Wasley', written in a cursive style.

Bill Wasley
Independent Chair
Greater Christchurch Urban Development Strategy Implementation Committee

Introduction

This submission is presented by the Independent Chair on behalf of the Greater Christchurch Urban Development Strategy Partnership (“the UDS Partnership”). The Partnership is overseen by the Implementation Committee (“the UDSIC”), a joint committee comprising Environment Canterbury (ECan), Christchurch City Council (CCC), Selwyn District Council (SDC), Waimakariri District Council (WDC), Te Rūnunga o Ngāi Tahu (TRoNT), the Canterbury District Health Board (CDHB), as well as the New Zealand Transport Agency (NZTA), the Department of the Prime Minister and Cabinet Greater Christchurch Group (DPMC GCG) and Regenerate Christchurch in an observer capacity.

The Urban Development Strategy outlines a 35 year growth management and implementation plan for the Greater Christchurch sub-region¹ and has been a key source document in the development of both the Land Use Recovery Plan and the Christchurch Central Recovery Plan under the Canterbury Earthquake Recovery Act (CER Act).

The UDS Partnership and individual UDS Partners have made submissions on previous documents covering related matters, including the DIA Building Sustainable Communities discussion document and various urban planning based inquiries of the Productivity Commission.

Submissions on this Discussion Document are also being made by individual UDS Partners and reiterate some of the comments made herein as well as covering more specific issues relating to their territorial areas or functions. This submission is intended to provide a strategic response, principally in relation to the overall intent of the document and the concept of Urban Development Authorities.

Greater Christchurch and the UDS

Greater Christchurch is the largest urbanised area in the South Island. Historically, the Greater Christchurch sub-region has grown in a more dispersed form leading to a number of negative community outcomes. A desire to more sustainably manage future growth across the sub-region resulted in moves by local government in the sub-region to initiate a growth management strategy.

The UDS was developed and adopted by the then partner councils (Environment Canterbury, Christchurch City Council, Banks Peninsula District Council, Selwyn District Council, Waimakariri District Council) and Transit New Zealand (now the New Zealand Transport Agency, NZTA) between 2004 and 2007. The goal was to prepare an agreed strategy for the Greater Christchurch sub-region to make provision for sustainable urban and rural development for the next 35 years. The adopted strategy was launched by the then Prime Minister in July 2007. The Strategy has now been the foundation for sub-regional planning over four electoral cycles.

Strategy focus

An important feature of the UDS is to provide a sustainable urban form and protect the peripheral rural communities that lie close to Christchurch City. The vision for Greater Christchurch by the year 2041 is a vibrant inner city and suburban centres surrounded by thriving rural communities and towns. Part of this vision is the implementation of an integrated planning process for growth management supported by the efficient and sustainable delivery of new infrastructure.

The UDS supports a fundamental shift in growth management from focusing largely on accommodating low-density suburban residential development in greenfields areas to supporting a compact and balanced urban form that enhances both urban and rural living. It considers the

¹ The Greater Christchurch sub-region covers the eastern parts of Waimakariri and Selwyn District Councils and the metropolitan area of Christchurch City Council, including the Lyttelton Harbour Basin.

complexity and inter-relationships of issues around land-use, transport, and infrastructure including community facilities, while incorporating social, health, cultural, economic and environmental values.

The UDS and Earthquake Recovery and Regeneration

The recovery of greater Christchurch from the earthquakes of 2010 and 2011 has necessitated widespread review of the strategies, plans and programmes that existed pre-earthquakes. In the context of land-use planning the two principal documents prepared under the CER Act are the *Land Use Recovery Plan* (LURP) and the *Christchurch Central Recovery Plan* (CCRP). The former has directly, or subsequently through statutory direction, made significant amendments to regional and territorial authority plans. This includes in particular:

- § inserting a new chapter within the Regional Policy Statement to provide greater planning certainty and enable the recovery and rebuilding of Greater Christchurch
- § confirming and expediting Christchurch City Council's intention to undertake a full review of its City and District Plans into a single replacement plan which will comprehensively address resource management recovery needs in Christchurch.

It is noteworthy that when analysing these Recovery Plans the fundamental tenets of the UDS have remained unchallenged and that work undertaken pre-earthquake to implement such principles provided a strong starting point before being reviewed through a post-earthquake lens.

Whilst much of the attention in relation to the UDS, both pre- and post-earthquake has been around its land use planning objectives, the strategy and its collaborative governance arrangements take a much broader view across economic, social, cultural and environmental well-being with an overall principle of 'sustainable prosperity'.

This holistic nature of the UDS Partnership enabled CERA and the Minister for Canterbury Earthquake Recovery to quickly and confidently engage with strategic partners on recovery related matters through the establishment of an advisory committee which mirrored the UDS governance structures.

The Greater Christchurch Partnership

The Partnership is in the process of renewing its role and purpose. It is currently seeking ratification from its voting member partners to a new Memorandum of Agreement (including amended Terms of Reference) which also simplifies its name to the Greater Christchurch Partnership.

This helps position the Partnership to take on the visible and collaborative leadership role required of local agencies following the transition of Government's role to one of supporting Greater Christchurch regeneration. It also recognises the role of the Partnership in endorsing and overseeing the implementation of associated initiatives, including the Resilient Greater Christchurch Plan, adopted in July 2016.

Submission Points on UDA discussion document

The Partnership:

- Commends the government for promoting the importance of well-functioning cities and their role in the wellbeing and living standards of New Zealanders.
- Does not support the extent to which powers override other legislation and statutory documents.
- Seeks greater involvement of respective regional councils and local iwi in decision making during both the establishment phase and preparation of development plans.
- Supports the right of veto and public governance aspects of the proposal as a fundamental requirement to be included in any subsequent legislation
- Does not support the transfer to a UDA of consenting powers or powers to reconfigure or revoke reserve status of land
- Seeks greater clarity on the funding and financing of UDAs and development projects, including the implications for council debt levels and the resultant liabilities following the disestablishment phase of a UDA
- Seeks wider applicability for the role of UDAs, including opportunities for smaller scale but strategically significant developments and the delivery of transport orientated developments.

Context

- a. The Partnership recognises the need for a suite of tools to facilitate appropriate urban development, and that existing legislative structures are not producing optimal and timely outcomes for New Zealand's cities. However, without further clarity around proposals at present, or understanding the culture of how UDAs might operate in practice, there are some key amendments and greater clarity required in some areas before proposals are progressed further through new legislation.
- b. The Partnership has supported the concept of locally based and governed Urban Development Authorities in previous submissions. UDAs can be a valuable mechanism to support the implementation of spatial planning approaches and deliver regeneration outcomes within identified communities. Given recent experience in Canterbury, a collaborative approach to supporting urban development is suggested as a good model to learn from. The language used and message to the community is important, and we suggest that rather than Urban Development Authorities, the title 'Urban Development Partnerships' or similar be used for these new entities. This better captures the working approach between relevant agencies, the private sector and the community. Similar arrangements, including 'Public Private Partnerships', have a more positive connotation than a new 'Authority' in the New Zealand context.
- c. The Greater Christchurch area continues to benefit from specific legislation and agencies to support recovery and regeneration following the Canterbury earthquakes. Some of the powers and functions of these approaches (in particular the Greater Christchurch Regeneration Act

2016) have similarities to aspects of a UDA, albeit for a time-limited period. Depending on when any new legislation is enacted, careful consideration would be required to ensure that the relatively complex local planning environment and the regeneration activities currently underway are not further complicated.

- d. The Partnership acknowledges the context of wider urban planning reform that Government has initiated in recent years and in which this proposal sits. UDAs represent a new tool and opportunity more focussed at the delivery level, complementing the more development enabling approaches outlined in the new National Policy Statement on Urban Development Capacity and the HASHA Act.
- e. The Partnership broadly agrees with the issues identified in the introduction to Section 2 of the document that prompt the need for legislation in support of urban transformation. It highlights the supporting information contained in the associated Regulatory Impact Assessment (RIS). The reasons behind the challenges presently faced in transforming urban environments are not all regulatory and certainly not all resulting from the actions of local government. The market is not delivering and the capacity and capability in the building sector also need attention. Paragraph 16 of the RIS highlights the sectors “requirements to create a return on capital and to manage risk profiles focuses private developers on ‘quick wins’ or high profit projects, rather than creating sustainable communities or providing affordable housing”.
- f. The Partnership therefore supports any moves that shift from a historic reliance on urban expansion through greenfield subdivision on the fringes of urban areas to an approach which favours greater redevelopment in existing urban areas.
- g. Any use of UDAs needs to be holistic in its approach by considering how any redevelopment is integrated within the wider urban area and how it contributes to the cited goals of a ‘vibrant and liveable city’ with ‘urban environments that are attractive, culturally rich, and provide a wide range of easily accessible amenities’.
- h. The range of powers that might be bestowed through the formation of a UDA are broad and as currently outlined enable such an entity to circumvent normal processes. While these may be needed and appropriate to effect change in some circumstances they should be used sparingly, after due consideration of other approaches and in order to deliver significant public good objectives.

Key submission points

Provisions to override other legislation and statutory documents

1. It is unclear in the discussion document why the new legislation regarding UDAs should fall outside of the mandate of the RMA. The Partnership is concerned that this could result in poorer community outcomes as a result of adopting a system that has few upfront requirements for providing for people’s social, economic and cultural wellbeing and minimising any negative effects of development on people and the surrounding environment.

2. It is submitted that the strategic objectives set for a UDA, and the planning and land-use decision-making that follows, should not be able to override matters in Part 2 of the RMA and should incorporate the matters covered in sections 61, 66 and 74 of the RMA.
3. Further, the strategic objectives that establish a UDA should not be misaligned with the strategic objectives outlined in any respective spatial plan, Regional Policy Statement or District Plan. It may be necessary for the UDA strategic objectives to be inconsistent with certain policies, methods and rules contained in these documents but such flexibilities would need to be rigorously evidenced as part of the establishment stage.
4. The same concerns exists in relation to the proposed powers to ensure long term plans, regional land transport plans and other statutory documents are consistent with the strategic objectives set for a development project. Ensuring alignment and consistency between plans and strategic objectives is logical and not at issue, but providing powers which override the existing functions and responsibilities of public agencies appears unnecessary and is not supported, particularly with the currently proposed primacy of UDA strategic objectives.

Role of regional councils and local iwi

5. The role and ability of the respective regional council and local iwi to shape and determine a proposed UDA is not strong enough given the powers that might be provided to a UDA.
6. Larger scale developments projects are likely to have sub-regional and regional impacts outside of the respective territorial authority boundary. The Partnership does not support the proposal that development plans might override regional plans and regional policy statements, without the explicit agreement of the regional council.
7. UDAs should be established in a spirit of partnership through collaboration and involvement with Government of not just the respective territorial authority. On-going engagement with the relevant regional council and iwi through the development phase should be embedded in any new legislation.
8. The proposal narrows the rights and interests of iwi and hapū, and dismisses the legitimate rights, relationships and kaitiaki responsibilities of mana whenua to the places, landscapes, resources, waters, species and other taonga that exist in their whole takiwā, including publicly owned and council owned lands. The RMA and other legislation, including claims settlements, protect those rights and interests and ensure a role for mana whenua in decisions affecting them. The proposed inclusion of a compulsory principle within the strategic objectives of UDA development projects does not adequately replace these formal statutory requirements.
9. Ngāi Tahu whānui, and other iwi and hapū, have invested an enormous amount of time, knowledge, hard work and patience in their interactions with local authorities within the frameworks established under current legislation. The achievements of this mahi have been carefully negotiated agreements of environmental and cultural provisions in councils' plans, strategies and other documents. The Partnership is concerned that the proposed powers of UDAs could take away any certainty that these requirements will be adhered to, thus jeopardising these commitments and relationships.

10. It is therefore submitted that the respective regional council and local iwi be integral to the 'agreement to consult' step, when agreeing the content of an Order-in-Council and in preparing the development plan.

Local determination

11. The right of veto by a territorial authority is a critical aspect of the proposal and the Partnership would not support any legislation which removed or weakened this provision.
12. The Partnership supports the intention that only Government and local government can be proposers of a UDA proposal and that only public agencies can be allocated UDA development powers.
13. Given the extent of work that would likely be required as part of an initial assessment it would seem appropriate that at a very early stage any proposals from Government are fully canvassed with the respective local authority to avoid significant abortive work on proposals that are clearly unsupported by local government.

Consenting powers and other powers

14. The Partnership does not support a UDA having consenting or enforcement powers. The need for transferring those responsibilities to UDAs has not been sufficiently proven and could have logistical and administrative consequences for all parties, and could confuse and dilute responsibilities under the RMA with environmental implications.
15. Regional and territorial consenting processes are highly systematised and provide the appropriate checks and balances to ensure development is enabled in a timely manner but with appropriate oversight. It is unlikely that a UDA will have the level of technical expertise and supporting systems in place to make this process any more efficient or streamlined. This weakness of the current proposal is highlighted in paragraphs 73-80 of the RIS.
16. Equally, the ability for a UDA to make changes to reclassify, revoke or exchange reserves land is not supported. The development plan will identify the need for any changes to reserves within the boundaries of a development project and where appropriate these can be facilitated by the existing authority with the powers to make such changes.
17. The local government members of the Partnership support the proposal for UDAs to be able to use a power of compulsory acquisition and that this unifies the purposes for which land can be acquired under the provisions of various statutes. These members consider that the suggested arrangements for the value of compensation to be calculated as if the development project had never commenced is an important aspect of capturing the value of the development project for public good rather than private benefit. These members also consider that removing the 'offer back' obligations is pragmatic step to ensure the development can be effectively delivered. Landowners can choose to take an equity stake in the development to realise a return on investment.

18. The local government members of the Partnership also support the associated powers to assist land amalgamation, including the ability to remove inhibiting covenants and easements on land.
19. However, Te Rūnanga o Ngā Tahu does not support the proposed UDA powers for compulsory acquisition, the removal of the 'offer back' obligations, or the proposed powers to remove covenants and easements on land. Te Rūnanga is providing comment on its opposition to these aspects of the proposals in its own separate submission on the Discussion Document.

Funding and financial arrangements

20. The funding and financial aspects of the proposals in the discussion document are not very well detailed. The discussion document has not sufficiently outlined alternative funding options promoted in other research, including the recommendations of the Productivity Commission to embed land value capture mechanisms and consider options across a broader taxation basket. Paragraphs 123-128 of the RIS outline this issue but do not provide a robust assessment of alternatives.
21. The concept of a UDA being able to borrow from lenders, issue bonds, or create joint venture or co-investment arrangements (that do not impact council debt levels) would allow for financing that might not otherwise be available to a public body and so is an attractive option.
22. Allowing UDAs to levy a targeted infrastructure charge may assist the development project but should not be seen in isolation of establishing an overall community levy that is reasonable and equitable. There will be an opportunity cost associated with the funding levies placed on a development area and these factors may not be included within the decision making of a UDA.
23. It is of interest to note that the proposal cites councils as having the structures and collection systems to obtain any levies and it is this justification that should apply for the powers of consenting discussed above.
24. The Partnership recommends that a further and independently authored piece of work provide a more in-depth and wide ranging assessment of funding approaches to support urban transformation, including the role this plays in relation to Urban Development Authorities.

Application of UDAs

25. The discussion document suggests that the role of UDAs is particularly suited to larger and long term development projects. The Partnership sees a wider applicability for the role of UDAs, including opportunities for smaller scale but strategically significant developments and the delivery of transport orientated developments.
26. The current stages as outlined in the document are suited to larger UDA projects as they will require significant resourcing before and during their establishment. Small to medium scale opportunities would need a more streamlined assessment and targeted consultation process and the powers available should be commensurate with the scale of the project.
27. For these reasons the Partnership favours a criteria-based approach for determining the applicability of a UDA for a given project.

28. The Partnership also sees a potential role for UDAs to be used to address necessary land-use change to facilitate transformative infrastructure projects, help manage the risks from natural hazards and as a mechanism to transition areas experiencing irreversible urban decline.
29. The Partnership supports the ability for a UDA to be applied in areas identified for future urban development (and that may at the time not be zoned for such purposes) so long as they are identified in a spatial planning document endorsed by the respective regional and local council.
30. The Partnership supports the project specific nature for determining UDAs but highlights the risk that such an approach might have to the enduring knowledge and expertise across an urban area. Early strategic thinking how any entity that is established can transition over time to be the vehicle for more than one UDA project would help maintain a core body of skilled personnel.

Additional submission points

Establishment Stage	Any initial assessment should be undertaken by the respective territorial authority, in liaison with central government officials.
	The initial assessment may still be a significant task to undertake a robust assessment. A cost share arrangement should be part of early discussions prior to this stage and reflect whether the proposal is initiated by Government or local government.
	Clarity is required on what signifies a project of national significance. As an example, the RIS suggests the issue of Auckland housing supply and affordability is of national significance but for any UDA proposal in Auckland to potentially fall under this classification and avoid a local authority veto is of concern.
	The Minister should not be able to unilaterally alter a proposal before it is presented to the Governor-General.
Development Plan Stage	Independent Commissioners should be jointly appointed by Government and the respective local authority.
	The Minister should seek the views of the respective regional and local councils on the Commissioners recommendations prior to deciding whether to adopt the Development Plan.
	There should be an ability for the Minister to refer any matters back to Commissioners for reconsideration prior to the Minister's final decision.
Creation of the UDA entity and lead development entity	Government should consider establishing an establishment fund to enable either the UDA or the lead development entity to be established in a timely manner.
Terminology	Throughout the document there appear to be inconsistencies in the roles and decision-makers at any given point, particularly when using the term Government (and whether this is central government or central and local government). As submitted in the key points above UDAs should be based on the principle of Partnership and decisions should be made jointly by the public agencies involved.
Powers for compulsory acquisition	It is unclear that the existing powers for compulsory acquisition for urban renewal purposes are sufficient. With the current definition of urban renewal it is questionable whether more commercially-orientated or mixed-use redevelopments would be captured.
	The use of existing compulsory acquisition powers for urban renewal purposes is minimal. Clear guidance on this matter, irrespective of any UDA legislation is crucial to give confidence in its use.