

11 April 2017

Construction and Housing Markets, BRM
Ministry of Business, Innovation and Employment
15 Stout Street
PO Box 1473
Wellington 6140

Attention: Urban Development Authorities Consultation

Dear Sir/Madam,

SUBMISSION FOR WATER NEW ZEALAND ON URBAN DEVELOPMENT AUTHORITIES PROPOSAL

Introduction and overview

1. Water New Zealand (“Water NZ”) appreciates the opportunity to provide consultation on the government’s Urban Development Authorities (UDAs) proposal.
2. Water New Zealand is a not-for-profit organisation that promotes and represents water professionals and organisations. It is the country's largest water industry body, providing leadership and support in the water sector through advocacy, collaboration and professional development. Members are drawn from all areas of the water management industry including regional councils and territorial authorities, consultants, suppliers, government agencies and scientists.
3. In terms of overall comments, Water NZ conditionally supports in principle the proposal for UDAs. In particular the holistic concept of urban development, as distinct from other recent initiatives focusing on housing alone, is commended. Water NZ sees the combination of consenting, compulsory acquisition, and infrastructure funding powers as having strong merits in terms of expediting trunk infrastructure projects to enable urban development.

4. However Water NZ is also concerned that infrastructure providers are engaged with throughout the development process, and that legislative bottom lines are included with regard to provision of sufficient and appropriate infrastructure, including water infrastructure for any UDA.
5. This submission provides specific comments in respect of each of the proposals under the headings:
 - a) Establishment process
 - b) Development plan stage
 - c) Land assembly powers
 - d) Planning and consenting powers
 - e) Infrastructure powers
 - f) Funding and financing powers
6. Where no specific feedback is provided water NZ adopts a neutral stance.

Establishment process

7. Water NZ supports the proposal (Proposal 16) that the legislation will not operate as the general planning framework for urban areas as a whole. While Water NZ sees the potential benefits of UDAs to respond to particular urban renewal opportunities this tool must be an adjunct to, and not a substitute for, an efficient and effective overall planning system.
8. Water NZ supports proposals 19 and 20 in that while requirements for major infrastructure investment should be a relevant consideration for the establishment of UDAs, standalone infrastructure projects are not eligible for UDAs.
9. Proposal 24 to include consultation with requiring authorities as a component of the initial assessment phase is supported by Water NZ. Consultation with requiring authorities at this stage should allow the early identification of infrastructure issues that either call into question the appropriateness of the proposed UDA or require careful management through the UDA process.

Development plan stage

10. Proposal 36 requires UDAs to consult with relevant territorial authorities, the regional council, and central government agencies that supply public services, on the content of the draft development plan. This requirement is supported however Water NZ considers that consultation requirement should extend to relevant infrastructure providers in the private sector. The content of the development plan is of critical importance to the success of an UDA and consultation with infrastructure providers (rather than the rights of submission afforded to the public generally) is a desirable input at the draft stage.

11. Proposal 41 provides for affected persons to make written objections to the recommended development plan and is supported by Water NZ. The process of hearing objections before independent commissioners outlined in proposal 42 is also supported. In Water NZ's view the provision for independent consideration of objections to the recommended development plan is an important check on UDA powers.
12. Water NZ also supports the requirement for unanimity between central and local government (proposal 50) before a development project may proceed. This requirement provides an important democratic check on UDAs.

Land assembly powers

13. The land assembly powers proposed to be available to UDAs (proposals 72-88) are supported. In particular the use of standard Public Works Act 1981 powers is supported.
14. Water NZ also supports the limited exception to allow the use of compulsory acquisition powers outside of the UDA area where the UDA is exercising powers as a requiring authority (see footnote to proposal 79). This limited exception is considered appropriate and recognises that infrastructure projects required to enable urban renewal may be in locations removed from the UDA area.

Planning and consenting powers

15. Water NZ conditionally supports proposals 97 and 106 which adjust the weight to be afforded by planning and consent decision makers so that the strategic objectives of the development project are afforded greater weight. Water NZ's support for this proposal is conditional on the foregoing feedback regarding the need to infrastructure providers to be closely involved in the UDA establishment and the development plan preparation processes.
16. Proposal 98 (d) provides for the government to impose restrictions on the planning powers granted to the extent necessary to achieve the strategic objectives of the development. The discussion document provides compliance with regional plan rules concerning discharge to air as a potential example of an exception. Water NZ considers that equally it may be appropriate to require compliance with regional rules concerning the treatment and management of storm water. Storm water is generally regulated in regional plans in an integrated manner. Allowing deviation from rules that achieve integrated management is counterproductive to good environmental outcomes. Related proposal 102(b) is also supported for the same reasons.
17. Water NZ supports proposal 99 that the relevant district and regional authorities must have regard to integration of the development plan with its surrounding context when reviewing plans and policy statements.

18. Water NZ notes the proposals in relation to designations (proposals 110 and 111).
Provided there is a robust objections process in place to resolve any issues then Water NZ does not have an issue with the changes to way designations apply in a development project area.

Infrastructure powers

19. The proposed legislation includes powers to stop, move, build, and/or alter: water supply, wastewater, storm water, fire hydrants, and land drainage infrastructure systems, including related trunk infrastructure and plant (proposal 113). This proposal is conditionally supported.
20. It is also proposed to include powers for UDAs to require the relevant territorial authority to alter or upgrade any remote trunk infrastructure necessary to support the development project (proposal 119) and for the UDA to become a requiring authority in respect of land outside the UDA area for the purposes of designating and compulsorily acquiring land to construct necessary infrastructure (proposal 120). These proposals are also conditionally supported.
21. Water NZ's support for this proposal is conditional on the foregoing feedback regarding the need to infrastructure providers to be closely involved in the UDA establishment and the development plan preparation processes.
22. In relation to proposals 123 and 124 that require alignment with local government planning processes Water NZ position is that such alignment is critical for the proposal as a whole to function properly. Such local government processes are often complex and require a significant amount of community input. It is difficult to understand how the proposals will operate in practice where it will be typical for development project timelines to not be in step with local government planning cycles.
23. Proposal 125 is that prior to exercising any powers relating to physical infrastructure, the UDA must "consult and collaborate" with the relevant government agencies, road controlling authorities, and/or territorial authorities to establish for a development project the proposed infrastructure location, system performance requirements, construction and quality standards, levels of service, operating implications and connections to existing systems. The intent of this proposal is strongly supported by water NZ. However Water NZ considers that consultation and collaboration with private sector infrastructure organisations will also often be necessary. Further it is considered that there is uncertainty surrounding the meaning of a requirement to collaborate. The extent of collaboration obligations will require some form of definition in the proposed legislation.
24. Proposal 126 is that at a minimum any new local infrastructure must meet the system performance requirements and levels of service of the existing infrastructure services networks as defined by the relevant standards and codes. This proposal is supported.

25. Proposal 127 which deals with what happens to assets if a development project is wound up is generally supported as this is necessary to consider to avoid the situation of sub-standard or debt ridden assets simply being off-loaded onto local authorities and other infrastructure providers.

Funding and financing powers

26. Proposals 132-139 provide a variety of methods available to UDA's to finance the provision of infrastructure. Water NZ supports the availability of these powers. The ability for local and central government to fund necessary infrastructure to enable development can be a significant impediment to large scale development. The adoption of alternative funding models for infrastructure as proposed has potential to circumvent this issue – but also gives rise to other potential problems. In particular it is considered that ultimate responsibility for infrastructure will generally sheet back to local and central government. If alternative private infrastructure funding models fail during the lifespan of the asset then in all likelihood government will be left to fill the gap.

27. The funding of infrastructure, in particular trunk infrastructure, to service development in a UDA naturally gives rise to equity and apportionment issues between the UDA and the territorial authority and ultimately ratepayers. These issues have the potential to be complex and contentious. In this context it is considered that the process in proposals 140-145 provides an appropriate process for the resolution of potential disputes. Further the adoption of targeted rates in proposal 133 to fund infrastructure provision is considered to provide an equitable 'user pays' funding mechanism.

Conclusion

28. Water NZ thanks the Ministry for the opportunity to make comments on this document and is happy to elaborate if required.



John Pfahler
Chief Executive