
ORDINARY MEETING

OF

CITY STRATEGY COMMITTEE

SUPPLEMENTARY AGENDA

Time: 9:30 am
Date: Thursday, 11 May 2017
Venue: Committee Room 1
Ground Floor, Council Offices
101 Wakefield Street
Wellington

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2. Policy

PROPOSED URBAN DEVELOPMENT AUTHORITY LEGISLATION - DRAFT SUBMISSION

Purpose

1. The purpose of this paper is to provide an overview of the Government's proposed Urban Development Authorities (UDAs) legislation and agree Council's draft submission.
2. The covering report outlines the draft legislation and how it is intended to operate, and Council's draft submission - attached as **Attachment 3** – outlines a proposed Council draft position on the legislation, and how the proposed legislation could be improved.

Summary

3. Earlier this year, the Ministry of Business, Innovation and Employment ("MBIE") released a paper titled "Urban Development Authorities – A Discussion Document". The purpose of the discussion document is to obtain feedback on potential future legislation to support large scale urban development projects that are either complex and/or strategically important to central or local government. It is implicitly recognised in the document that regulation of private sector alone cannot deliver the transformational and large scale projects that will enable New Zealand cities to evolve in response to present and future land use demands.
4. At its simplest, the proposed legislation would expand both central and local government powers – exercised by publicly owned urban development authorities (UDAs) - to allow them to have a more active role in identifying, planning and delivering large scale complex urban redevelopment projects that are of strategic importance. There is a strong housing (and Auckland) focus within the discussion document. However the powers are proposed to be made available to and have relevance for other urban areas of New Zealand and for a broad suite of non-housing projects.
5. The proposed legislation would sit alongside existing legislation and provide territorial authorities and central government (and joint central / local government entities) the opportunity to access a 'toolkit' of powers on a case-by-case basis to support strategically important developments.
6. Key elements of the legislation and associated powers include: a bespoke resource consent and rezoning process; powers to levy landowners for infrastructure costs; the ability to change reserve status over certain types of public reserves; compulsory acquisition powers; powers to override local plans developed under the Resource Management Act (RMA); dual decision making on the establishment of projects by the Minister and the relevant territorial local authority / TLA (essentially giving TLAs a "right of veto"); and a new framework for public engagement. These key elements are the focus of the draft submission and more technical aspects are also covered at the end of the submission.
7. The full set of powers is not provided "as of right" - they would be made available on a case by case basis according to what is needed to "unlock" specific sites. The powers will only be granted if a strong case is made for them, and only with joint Ministerial and

TLA approval. The powers made available expire at the conclusion of the project and projects can only occur in “urban areas”, though this term is yet to be defined.

8. The proposed legislation will require central government and TLAs to work together to identify development projects and set the strategic objectives for those projects (e.g. stipulate a certain proportion of affordable housing for any project). It is intended to be enabling, flexible, and reliant on the building of constructive relationships between central government and local government.
9. While the additional powers are substantive, the threshold to obtain them is high. The process for obtaining special powers includes a rigorous establishment phase that requires community and stakeholder consultation, and as noted above, both the Minister and the TLA retain the right to veto any projects prior to the formal commencement of a project or the establishment of the UDA that would deliver it. This ensures a high threshold for projects seeking additional powers and both levels of government would need to be in agreement that the development should proceed. The process by which urban development projects are established, the consultation and creation of a development plan is outlined in Attachment 1.
10. The legislation provides TLAs and central government a significant toolkit to deliver large scale complex urban developments that are difficult to achieve under current settings. There is absolutely no requirement for TLAs to make use of additional powers if they do not wish to, and under the proposed legislation TLAs retain the power to determine whether projects initiated by central government or its departments (e.g. Housing New Zealand) are able to acquire them for any project within their jurisdiction.
11. MBIE is calling for submissions which are due on the 19 May 2017. No hearings will be held. Submissions will be analysed and reported back to the Minister and new legislation is expected to be draft in 2018. If legislation is tabled in Parliament, a second round of submissions and consultation will be held as part of the select committee process.

Recommendations

That the City Strategy Committee:

1. Receive the information.
2. Note the development process for proposed Urban Development Authorities as outlined in Attachment 1.
3. Note that the proposed legislation can impact infrastructure providers and Wellington Water has made a separate submission on the proposed legislation as outlined in Attachment 2.
4. Agree council’s draft submission as outlined in Attachment 3 and delegate authority to the Mayor and the Portfolio Leader Urban Development to finalise the submission in-line with discussions and amendments made at committee.

Background

12. Constrained housing supply has resulted in significant housing affordability issues throughout many of New Zealand’s urban areas. Central government has commissioned a range of investigations on land use planning, and housing affordability to determine how best to improve housing supply and improve urban development more generally.

13. The proposed legislation outlined in the discussion document has its foundations in the 2015 Productivity Commission report *Using Land for Housing* report that recommended large scale development projects be able to operate with different powers and land use rules.
14. Key findings from this, and other work, was that while existing legislation is adequate in some land use and development scenarios in New Zealand, this is not the case for all urban areas – particularly those where there is strong population growth, demographic changes, and the need to redevelop and intensify land to accommodate more growth.
15. During the 2016/17 Annual Plan consultation process, Council consulted on the concept of a UDA entity for the city. This received support from 75 percent of submitters, and a report on a broader range of options will be presented to Council in the coming months.

Discussion

Overview of legislation

16. At a high-level the discussion document outlines enabling legislation to drive large scale and complex urban development projects through access to special powers on a case by case basis.

Council draft position: The proposed legislation has potential to assist TLAs to deliver complex urban renewal projects at scale (including in partnership with central government) that would be considerably more difficult or simply would not happen under the current settings. On balance, the proposed legislative changes could deliver significant opportunities for urban renewal and it is therefore recommended that it be supported in principle subject to changes and appropriate checks and balances as outlined in the draft submission – specifically this should include maintenance of the “power of veto” described below and responsible use of the substantive powers included in the proposal.

Central and local government roles

17. TLAs and central government sit at the centre of the proposed legislation with an emphasis on collaborative decision making and potential partnerships. This is either through directly partnering with central government on a project or through non-Council UDA development projects. That signals a potentially much greater role for central government in what are currently more-or-less exclusively local government controlled urban development issues.

Council draft position: Central government is an important stakeholder and also has various landholdings in most cities. Working in collaboration or in partnership could bring significant opportunities to fruition but it will be important that these align to Council’s strategic plans for the city, the district plan and asset management plans. Therefore officers recommend that Council’s comfort on this matter be subject to maintaining the power of veto on any development project as currently envisaged in the draft legislation.

Impact on private market

18. The proposed legislation is aimed at transformation and large-scale projects that are complex and unlikely to occur without some form of government intervention. It is acknowledged in the discussion document that this could have significant impacts on the supply-demand dynamics of local economies, particularly outside of Auckland where property markets are smaller and more fragile.

Council draft position: Whilst acknowledging that it is the express intention of the proposal to accelerate the redevelopment of urban land and increase the supply of

development product into the market, UDA projects should be conceived in terms of their impact on the local market and not undermine the healthy, functioning privately led parts of the development market. They should operate on the principle of 'bridging the gap to the market and no more.'

Scope of legislation

19. Predictably there is a strong Auckland housing focus but the scope of projects extends to commercial and industrial development, restoration of heritage buildings and economic stimulus projects in deprived neighbourhoods and regions. Significant coverage is given to the successes of UDAs in other countries (e.g. the United Kingdom) in these areas. Although projects must be in "urban" locations there has been no effort to define this. Greenfield locations receive less attention on the basis these don't experience the same development constraints as brownfield land (particularly land fragmentation). As drafted the proposal has potential to support a broad range of projects in Wellington City including employment led development opportunities; city resilience projects including earthquake prone building cluster redevelopment; and remediation of valuable heritage buildings and precincts.

Council draft position: The scope of the legislation beyond housing and housing supply issues is endorsed. The proposed tools could assist other Council priorities for the City such as remediation of earthquake prone building clusters; retention of valuable heritage buildings at risk of decay or demolition; and delivery of employment led and "mixed-use" projects. Greenfield sites adjacent to urban areas should also be considered as they are important to meeting housing supply needs of many cities.

Publicly owned UDAs

20. A full range of public entities are eligible to become UDAs and attract special planning powers. This includes territorial authorities, their CCOs and a full range of Crown entities (e.g. Housing New Zealand). Joint central and local government entities such as the Tamaki Regeneration Company and Regenerate Christchurch are also eligible.

Council draft position: It is noted that all UDAs must be publicly owned, however, there is some uncertainty in the discussion document whether powers can be conferred on councils as it places an emphasis on a skill-based boards (related to the project) and Ministerial approval of board makeup. This does not appear to sit neatly with a function overseen by a traditional Council committee and further clarity should be sought on this point.

Additional powers and checks and balances

21. Both central and local government may informally identify a project opportunity but as the proposal assumes projects will be overseen by Crown or TLA based UDAs ultimately it is expected that officials (either from the Crown or TLA) would present potential development projects for subsequent approval by the Minister and TLA.
22. Projects would spatially defined and the powers made available for that project would only be able to be utilised within this spatial area. Furthermore, only those tools required unlock the specific development problem present would be made available.
23. The proposed legislation provides for a significant amount of public input at different junctures. Firstly, the establishment of a development project at the pre-planning stage includes a process of public consultation to feed into the Ministerial / TLA decision making process. Then, following project establishment, there is a further juncture for public input through notification of the "draft development plan" which would facilitate public input into the more detailed aspects of the development proposal. Following these stages rights of objection would be available to affected parties (but not the general public). See the diagrams in **Attachment 1** for further details.

Council draft position: the new proposed powers are substantive but subject to a rigorous consultation phase, an objections process and dual TLA and Ministerial approval effectively handing TLAs a right of veto. These are considered important safeguards within the proposal because the draft legislation provides the opportunity for non-council publicly owned UDAs to establish and deliver projects within Wellington City.

Infrastructure levies and value capture

24. This aspect of the proposal is not as built-up as others. Put simply the legislation would cover the delivery of infrastructure and where there is demonstrable benefit UDAs could levy property owners to recover the costs of providing or upgrading infrastructure. This potentially includes opportunities to levy existing landowners adjacent, but not within UDA project areas.

Council draft position: there are potentially considerable benefits to be derived from the extra levying powers taking into account the infrastructure cash-flow and funding challenges local authorities face nationwide. On this basis Council seeks greater clarity on the ability to capture value before it is created. This however needs to be done well as it could result in substantive natural justice issues to adjacent landowners if not well considered.

Special planning powers (development plan process and self-consenting)

25. Although the proposal itself is not fully detailed, one of the key drivers is to speed up approvals for major projects. The process to prepare development plans has high levels of consultation and engagement but also includes reduced rights of appeal. The term “development plan” encompasses both rezoning (plan change) and resource consent processes through a single statutory process (i.e. these are not separated into separate processes as they are under the RMA). **Attachment 1** outlines the process in more detail.

Council draft position: the “streamlining” aspects of the development plan process (i.e. one round of submissions, narrowing of number of parties eligible to appeal, and removal of Environment Court appeal rights) can help deliver large scale and complex urban development projects in a timely manner, but importantly Council comfort on this process is subject to maintaining the power of veto and effective up front public engagement. In terms of the UDAs being given “self-consenting” powers (after both TLA and Crown) support for the project is established, this is not supported. That is contrary to the typical “separation of powers” exercised under the RMA – i.e. where development applications are assessed by an independent regulatory body (usually local authorities). Full consenting powers should remain with TLAs under the proposed legislation. Further to this, the effective administration of planning approvals requires specialised skills that are often best found “in-house” at local authorities.

Land assembly

26. The discussion document notes that compulsory acquisition powers are already available to the Crown and territorial authorities under the Public Works Act (PWA) for “market housing”, “social housing” and “urban regeneration” projects, though steps are proposed to ensure greater clarity is given to this and that UDAs are explicitly eligible for these powers.

Council draft position: this power would greatly assist the consolidation of land in support of the strategic redevelopment of brownfield areas. There is some confusion in the sector as to whether the powers already exist for housing. Council’s own legal advice is that powers of compulsory acquisition are not clearly available to TLAs under existing legislation. These matters need to be clarified through the legislative process.

Reserve revocation

27. With the exception of Māori, nature and scientific reserves the proposed legislation would enable UDAs to revoke the reserve status of land to pursue development projects. This matter has received attention in Auckland where golf courses have been in the spotlight as potential housing development sites.

Council draft position: Application in Wellington would appear to be somewhat limited given Council's well established reserves management approach. It is also noted that the Town Belt Act 2016 would protect the Town Belt from this proposal. There may be instances where improved public space outcomes, including new locations, could be enabled through use of this power – noting that an engagement driven masterplan process would enable public input and help derive better outcomes.

Conclusion

28. A draft Council submission is attached as **Attachment 3**. Consistent with that draft submission officers recommend that Council signal in-principle support for the proposal. The draft submission outlines that this in-principle support is contingent upon maintenance of the TLA power of veto, responsible use of the substantive powers included in the legislation (e.g. compulsory acquisition) and appropriate levels of engagement.
29. The proposal presents a range of tools and Crown partnership potentials that could greatly assist the realisation of Council's urban development objectives for Wellington. However, developments need to be done well and contribute to the city's overall strategic direction and it is for this reason retention of the TLA power of veto is strongly recommended. Other more technically specific points are also made in the submission, which officers believe can improve the functioning of the proposed legislation and deliver better urban development outcomes.
30. Wellington Water has also made a submission on the proposal and this is attached as **Attachment 2** for the committee's information. Although this submission deals specifically with the infrastructure elements of the proposal it is in-keeping with the spirit of the draft Council submission prepared by officers.

Attachments

Attachment 1.	Key Process Diagrams from the Discussion Document	Page 10
Attachment 2.	Draft Wellington Water Submission	Page 12
Attachment 3.	Draft Wellington City Council Submission	Page 15

Author	Antoinette Bliss, Governance Advisor
Authoriser	David Chick, Chief City Planner

SUPPORTING INFORMATION

Engagement and Consultation

Not applicable. Council is responding to proposed legislation.

Treaty of Waitangi considerations

There are no Treaty of Waitangi implications from making this submission. The discussion document references Maori reserves and offer back provisions and these are covered in Council's draft submission (attached).

Financial implications

There are no financial implications from making this submission.

Policy and legislative implications

There are no policy implications from making this submission. The submission provides feedback on proposed legislation that if enacted could impact Council.

Risks / legal

Not applicable.

Climate Change impact and considerations

No considerations at this point.

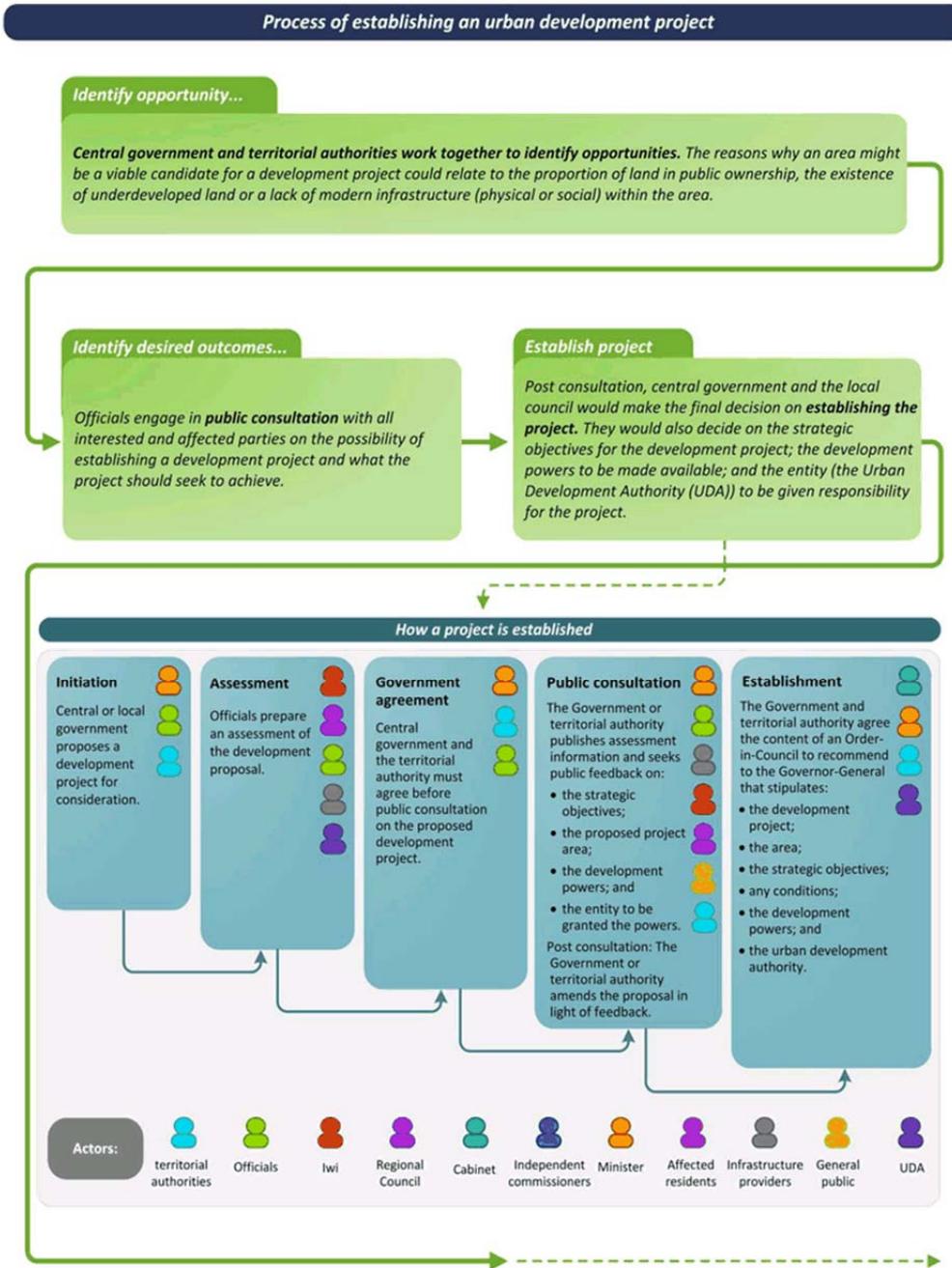
Communications Plan

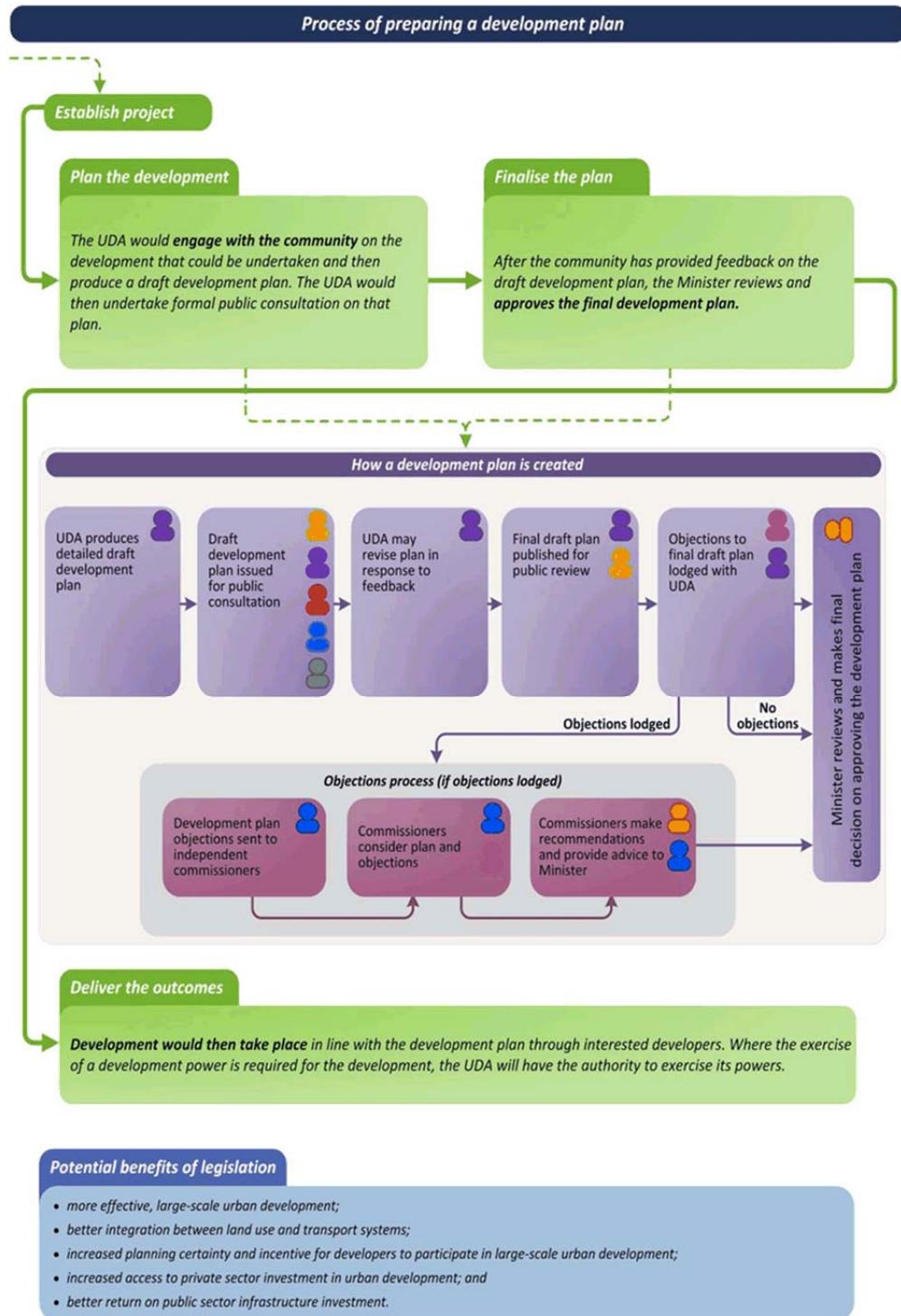
Not required at this point.

Health and Safety Impact considered

Not applicable.

Appendix 1 – Key Process Diagrams from the Discussion Document





Wellington Water Submission

1 May 2017

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

Delivered by email to: UDAConsult@mbie.govt.nz

WELLINGTON WATER'S COMMENTS – URBAN DEVELOPMENT AUTHORITIES

Thank you for the opportunity to comment on the Government's proposal for new urban development legislation, which will enable the fast-tracking of nationally, regionally, or locally significant projects.

Introduction

Wellington Water (WWL) is owned by the Hutt, Porirua, Upper Hutt and Wellington city councils and Greater Wellington Regional Council (GWRC). The five client councils fund WWL to manage the council-owned three waters networks (water supply, wastewater and stormwater). This includes providing investment advice about the future development of three water assets and services.

General Comments

WWL supports the overall intent of the legislation. In particular we see potential to achieve better integration between land use and infrastructure planning for large-scale developments. Our submission points are largely focused on the provision of three waters infrastructure, noting that our client councils will be providing their own submissions.

Processes - Establishment Phase

The Establishment phase is important for determining the feasibility of potential development projects. We believe an important aspect of this upfront assessment is determining infrastructure requirements to support development projects. The provision of new trunk infrastructure and/or upgrades requires significant capital investment and upfront planning and design.

WWL is responsible for delivering a capital works programme that includes the maintenance, operation, renewal and upgrading of three waters infrastructure. As such, it is essential that WWL, and infrastructure providers more generally, are included in the initial assessment phase (Establishment phase). We note also that the provision of information and modelling data to determine the capacity of our three waters networks can take time to source, which is another reason why involvement in the Establishment phase is important.

Consenting – planning, land use and consenting

The proposals for consenting (98) state that the development plan can override planning documents, such as regional and district plans. Further a UDA can be granted the planning and consenting powers of a regional council and territorial authority. WWL has concerns about the powers given to UDAs that could impose restrictions on the application of regional rules within project areas.

WWL, on behalf of its client councils, holds numerous consents for wastewater and stormwater discharges, and also trunk infrastructure projects. For discharge consents WWL are regulated by GWRC in accordance with water quality limits set in the Proposed Natural Resources Plan (and future limits set by the Whaitua process).

WWL notes the potential for landuse activities and inadequate design standards (within specified development areas) to create downstream and cumulative impacts on water quality – e.g. stormwater and wastewater overflows. It important that discharge effects are managed in an integrated manner, which reflects both community aspirations (e.g. limits set by the Whaitua) and the regulatory conditions for discharges required by WWL.

The control of flooding is another issue that requires adequate stormwater infrastructure to mitigate impacts within and outside the development area. Additionally, urban development activities have the potential to impact on the supply and quality of bulk-water intakes (e.g. river, aquifer). WWL is concerned that UDAs may not have the expertise or understanding of the wider catchment to make informed decisions on regional plans.

Infrastructure powers

It is likely that large scale developments will require new trunk infrastructure or upgrades to existing infrastructure. The proposed legislation includes powers to 'require' the relevant territorial authority to alter or upgrade trunk infrastructure systems that are necessary to support the development project.

WWL notes that the approval process to upgrade or build new trunk infrastructure can be contentious, costly and time-consuming. The 'notice of requirement' process for designating land outside the project area is also subject to hearings and appeals. It is important that trunk infrastructure is able to be constructed or upgraded within a time frame can support a new project area.

Infrastructure performance requirements and standards

Proposal 126 states that at a minimum, any new local infrastructure must meet the system performance requirements and levels of service of the existing infrastructure service networks as defined by the relevant standards and codes (e.g. NZS). WWL supports this proposal.

However, we also note the potential for UDAs to override bylaws and District Plan rules, which may contain provisions that support service goals and outcomes (e.g. community resilience, water quality outcomes). It is important that Development Plans support three water service goals and aspirations *within* and *outside* of the specified project areas. This is particularly important for infrastructure developed by the UDA which is later vested to the relevant entity.

Funding and financing powers

WWL supports the need to finance infrastructure which supports maintenance and renewals over the lifetime of the asset. This is particularly important for infrastructure which is later vested with local authorities.

WWL notes that investment decisions relating to substantive trunk infrastructure needs to reflect the goals and priorities of councils and their communities (rate payers). There may be instances where the strategic objectives of a project (e.g. nationally significant outcomes) may not fully align with regional or local priorities, or may involve different timeframes.

These issues need to be resolved in fair and equitable way with the opportunity to leverage alternative funding sources (e.g. from central government).

Thank-you again for the opportunity to comment on this proposal.

Yours sincerely

Rebecca Maplesden
Principal Advisor, Strategy
Wellington Water Ltd

Draft Wellington City Council Submission

Wellington City Council Submission on:

Urban Development Authorities: A Discussion Document

May 2017

1. INTRODUCTION

- 1.1 Wellington City Council ("Council") makes this submission to the Ministry of Business, Innovation and Employment ("MBIE") on the document entitled "*Urban Development Authorities: A Discussion Document*" dated February 2017 ("the discussion document").
- 1.2 Council has been an active submitter on proposed resource management and urban development reform and this submission should be read in the context of other such submissions, including, for example, its recent submission on the Productivity Commission's report "*Better Urban Planning*" dated August 2016.
- 1.3 Overall Council supports in principle the idea of special Urban Development Authority legislation because of the role it can play in resolving enduring development roadblocks experienced in different parts of New Zealand. Considering housing supply issues and other constraints in the market, there is a strong argument to be made for more direct local government / public sector intervention in failing property markets to deliver improved urban development outcomes subject to appropriate checks and balances. However, Council wishes to clearly express that its support for the proposed legislation is contingent upon the effective power of veto available to territorial authorities through the dual Ministerial / Council approval in the critical project establishment phase; responsible use of the substantive powers (e.g. compulsory acquisition) proposed; and the general approach to and level of public engagement currently proposed. That is if the effective power of veto were removed and / or Council was not sufficiently comfortable about the availability and use of substantive powers and opportunities for public engagement its support for the proposal would be withdrawn.
- 1.4 Council considers that existing regulation alone is limited in what it can achieve and this is reflected in previous submissions Council has made to central government. For example, the Council is interested in exploring whether the ability to assemble land through clearly available compulsory acquisition powers might assist in making

sufficient land available for current and future needs as required by the recently gazetted *National Policy Statement: Urban Development Capacity*.

- 1.5 Further, Council supports the flexible “toolkit” approach being proposed as the tools required will vary from project to project across urban areas across New Zealand and making them available on an “as needs” basis will prevent urban development authorities (“UDAs”) from overreaching themselves. However, there are aspects of the proposed legislation that Council has concerns about or could benefit from greater clarity. These matters are raised in Section 3 below.
- 1.6 Council’s substantive feedback is provided in two sections – Section 2 dealing with key aspects of the high-level approach of the proposal and Section 3 providing feedback on specific Council notes that as the proposal is not yet fully formed and it makes its submission on a “without prejudice” basis with the intention of making a further submission when the proposal progresses into draft legislation.
- 1.7 It is also important to note that Council’s feedback is made drawing firmly on the context of urban development in Wellington City. The city faces a range of urban development pressures that could be eased through some of the measures proposed in the discussion document. These include but are not limited to housing affordability challenges; land scarcity resulting from historic fragmentation and natural geography; and earthquake prone building clusters.
- 1.8 Council also wishes to express the importance of the proposed legislation supporting high quality, integrated development outcomes rather than a singular focus on the volume of development it can deliver. Council is interested in following the development of the land assembly (i.e. compulsory acquisition and offer back) mechanisms, especially in the Wellington context where brownfield redevelopment is likely to play a critical role in the future development of the City.

2. COUNCIL POSITION ON HIGH-LEVEL MATTERS

In-principle support for the proposed legislation

- 2.1 As described fully in paragraph 1.3 Council supports in principle the idea of special Urban Development Authority legislation because of the role it can play in resolving enduring development roadblocks experienced in different parts of New Zealand. However, this support is contingent on maintenance of the effective “power of veto” to be enjoyed by territorial local authorities (“TLAs”) and responsible use of the substantive powers to be made available to UDAs (see below).

Support contingent on maintaining of the effective power of veto for TLAs

- 2.2 Council supports the central role of TLAs in the discussion document. Council's understanding is that the relevant TLA and the Minister¹ would need to agree to projects being delivered under the legislation. In essence this means that any project not meeting with the TLA's approval could not proceed and this effective power of veto underpins Council's support for the proposed legislation.
- 2.3 TLAs are responsible for a range of complimentary guardianship roles in urban areas such as district plan making, infrastructure planning and funding, public realm investment, and provision of "soft infrastructure" such as libraries and sports facilities. In Council's case these roles are guided by a strategic growth plan². Projects delivered in a vacuum from this co-ordinating framework could compromise the community outcomes Council seeks through its activities and the significant investment it makes in infrastructure and the public realm. To this end Council suggests that a memorandum of understanding or other mechanism be considered between the Minister and TLAs for cities and districts where the proposed legislation is used. This mechanism would enable locally specific planning frameworks and other relevant local development issues to be appropriately referenced and respected through an umbrella document which could act as a "bridge" between the legislation and its on the ground execution.

Support contingent upon responsible use of substantive powers

- 2.4 The discussion document proposes the use of a package of substantive powers by UDAs in a manner not currently available to existing public bodies under existing legislative settings. These powers stand out from other aspects of the proposal because of their strength and potential implications and include:
- compulsory acquisition powers;
 - use of surplus public land for urban development purposes;
 - self-consenting powers for UDA projects;
 - ability to revoke reserve status for certain types of reserves.
- 2.5 Feedback on specific technical elements of these proposals is set out in Section 3 below but as a general principle Council notes that its in-principle support for the overall proposal is directly contingent on responsible use of these substantive powers. Responsibly used Council believes these powers have the ability to unlock currently intractable development constraints. However, taken collectively these powers also

¹ The document does not specify which Minister would oversee the legislation

² The Wellington Urban Growth Plan 2015

present the risk of inappropriate threats to private property rights; conflation of project delivery objectives and sound regulatory decision making; and significant impacts on local democracy and amenity.

Support contingent on maintenance of comprehensive public engagement framework

2.6 The proposal includes a comprehensive framework for public engagement which includes full public consultation during the project establishment phase and again in response to the draft “development plan” prepared by the UDA. This approach is intended to facilitate broad stakeholder input into the shaping of the project and to justify the narrowing of appeal rights at the back end of the development plan process. Council endorses this approach whilst noting that its in-principle support for the overall proposal is contingent on maintaining this framework and level of public engagement (or similar).

Support for central government involvement in local urban development issues

2.7 Council supports the concept of greater central government assistance with local urban development challenges. Specifically Council believes that a joint approach to critical local issues, in the spirit of the approach employed in the Wellington Housing Accord, can be beneficial to the City. This could extend to partnership approaches to the redevelopment of strategic Crown property sites should government have an interest in this.

2.8 However, Council’s support for greater central government involvement in City development issues is subject to case by case consideration and respect for the principle of local decision making and maintenance of the “effective power of veto” referred to above. Council contends, in the spirit of genuine partnership, central government involvement in any urban development project in the City would be with Council’s consent and consistent with Council’s strategic land use and infrastructure planning framework embodied in the *Wellington Urban Growth Plan 2015* (“UGP”).

Support for the “toolkit” approach

2.9 Council endorses the approach to the proposal whereby only those tools required to “unlock” a particular development scenario are made available. In Council’s view this contrasts favourably with the alternative of making all powers generally available. In particular it provides a key safeguard against inappropriate use of the substantive powers.

Greater clarity sought on eligibility for access to special powers

- 2.10 The discussion document outlines that various central government and local government entities as well as joint entities (e.g. Regenerate Christchurch) would be eligible to become UDAs under the proposed legislation. This includes TLAs themselves and council controlled organisations (“CCOs”). However, it is not clear in the document whether these different entities are all equal in the eyes of government in terms of gaining access to the individual powers available.
- 2.11 For example, would the Minister be amenable to conferring compulsory acquisition powers directly on a TLA or conferring development plan powers (i.e. regulatory planning powers) on a CCO? Council considers this should to be clarified in light of the different government entities eligible to apply for them. This matter is further confused by references to “independent boards” at various points in the document because this implies a preference for arm’s length entities. Clarity is important to Council as it continues to consider options for resolving housing and other urban development issues in Wellington City.

UDA projects must compliment and not compete with the private market

- 2.12 It is implicit rather than explicit in the discussion document that UDA led development projects are cognisant of the market that they will enter. Whilst Auckland is experiencing ongoing growth other parts of New Zealand are much smaller and more vulnerable to fluctuations in market conditions.
- 2.13 Accordingly UDA led projects which seek to deliver large amounts of development product into the market could have a significant impact on supply and prices in local markets and end up *competing* with private developers. This would be detrimental to a healthy private development market and therefore seeking a balance is important.
- 2.14 In its own investigations on the potential for a Wellington based UDA Council has adopted the principle of “bridging the gap to the market and no more”. Operating to this principle UDAs could co-ordinate projects beyond the capability of the private sector alone whilst borrowing private sector capabilities and appetite for risk.
- 2.15 Accordingly, on the basis of the above, Council suggests that the principle of working with the market rather than competing against it be referenced in the drafting of the Bill when matters progress to this point.

Support for the scope of the proposal to extend beyond housing

- 2.16 Council supports the broad focus of the discussion document on urban development matters that go beyond current nationwide housing issues. Council fully appreciates the

importance of finding solutions to the existing housing market, is facing genuine pressures in Wellington City, and has proactively formed an independent “housing taskforce” to advise elected representatives on Council housing policy. However, Council is facing a wider set of urban development challenges such as:

- promoting “employment-led” urban development to help broaden the City’s economic base and resilience;
- promoting infrastructure projects, earthquake prone building remediation and precinct redevelopment that makes the City more resilient to natural hazards and in particular earthquakes to which Wellington is especially vulnerable³; and
- balancing earthquake resilience responses with protection of the City’s heritage fabric, particularly inner city buildings in areas such as Cuba Street.

2.17 Accordingly, Council considers that legislation dealing with a broader set urban development issues can contribute more fully to Wellington (and other urban areas in New Zealand) than legislation dealing with housing matters alone.

3. SPECIFIC TECHNICAL MATTERS

Public Works Act issues

- 3.1 As noted in Section 2 above it is proposed to make compulsory acquisition powers available for urban regeneration and housing supply purposes. The position outlined in the discussion document is that these powers are already available to TLAs but some legislative changes would be made to give greater clarity to this *and* to make the powers available to UDAs (as specific entity types UDAs are not currently recognised in legislation).
- 3.2 Council wishes to convey the contrary view (drawing on its own legal advice) that compulsory acquisition powers are not clearly available to TLAs for urban development purposes. Whilst Council acknowledges that MBIE and other organisations hold conflicting views and legal advice Council has liaised widely on this matter and identified a clear split in the legal fraternity on this matter that, in its view, necessitates greater legislative certainty.
- 3.3 Turing to the specifics of Wellington the City is geographically constrained with the valley floors and easier slopes already intensively developed and with severely

³ Wellington City Council has actively promoted city resilience to natural hazards as a key policy position for many years and was recently chosen by the Rockefeller Foundation as one of 100 “resilient cities” from around the world to take part in a programme to promote resilience policies and actions

fragmented ownership. This presents significant challenges to redevelopment and the ability of the City to evolve in line with present and future land use demands. Experience overseas is that compulsory acquisition can effectively “unlock” mature urban areas that are so fragmented they cannot be redeveloped in a co-ordinated manner or at any scale. It is on this basis that Council is interested in following the development of compulsory acquisition powers to selectively support strategic redevelopment.

- 3.4 Council considers that the related sections of the Public Works Act that deal with “offer back” should be amended to ensure consistency with the proposed approach to compulsory acquisition powers. That is if compulsory acquisition is available for urban development purposes then the requirement to “offer back” surplus land acquired by compulsion (to former owners) should only occur after Crown entities, lwi, TLAs and UDAs have had the opportunity to consider the land for urban development purposes.
- 3.5 Council is firmly of the view that any compulsory acquisition and offer back powers must be used only where required and as a last resort. Regardless of compensation arrangements the impact of compulsory acquisition on property owners (both residential and commercial) can be profound and therefore should only be used where necessary and where the public benefits of a project clearly outweigh protection of private property rights.

Development plan process

- 3.6 Council supports the proposed development plan process noting the efficiency and priority it can offer strategic projects relative to the standard resource consent and private plan change processes available under the Resource Management Act (RMA). However, there are aspects of the development plan process that Council has concerns about.
- 3.7 Firstly Council notes that UDA led projects can occur on land not already zoned for development in the relevant district plan. This creates the potential for development fronts that are not only contrary to the district plan but also contrary to asset management planning and broader strategic planning initiatives. On this basis Council only supports the development plan process subject to its effective power of veto being maintained. This way Council will be able to evaluate whether a project outside of existing urban zonings will undermine its regime of strategic planning and infrastructure investment and determine whether it should proceed. Council considers this a matter of natural justice and prudent use of public money.

- 3.8 Council also has reservations about the ability of UDAs to “self-consent” development plans, albeit with the benefit of feedback from relevant authorities. In the interests of robust decision making Council suggests regulatory decision making power should remain with the relevant TLA taking into account the project’s strategic objectives; Part II of the RMA; the established regime of local plans developed under the RMA and the feedback of the relevant regional council. This way Council believes there would be an appropriate separation of powers between the UDA and its development focus and regulatory decision making. Additionally and importantly regulatory planning administration is a highly specialised skill that really only resides in local authorities and would be difficult to replicate in a UDA.
- 3.9 Council acknowledges this approach may provoke concern that UDA projects would become bogged down in the type of planning process the proposal aims to avoid. However, if the TLA is required to heavily weight its consideration of applications (for resource consents and rezoning proposals) in favour of the projects “strategic objectives” (jointly agreed by the TLA and Minister) then this matter can be addressed at the outset of the project. The benefit is that it would enable all relevant resource management and development matters to be properly considered, including special environmental and heritage values where present. In Council’s view this approach has been successful under the *Housing Accords and Special Housing Areas Act* and can be replicated in UDA legislation. Further, for context Council’s experience with traditional consenting under the RMA is not of applications getting bogged down and it retains general comfort with that process⁴.
- 3.10 Council also holds reservations about the narrowing of parties eligible to appeal (i.e. “object to”) development plan decisions. In particular Council urges government to ensure the definition of “affected party” is not too narrowly construed so that parties are erroneously excluded from making an objection.

Reserve revocation

- 3.11 The discussion document proposes a power whereby the reserve status of land (excluding nature reserves, scientific reserves and Māori reserves) can be revoked to create new development sites for projects.
- 3.12 Wellington’s reserves network is a critical component in its high “liveability rating” and it has consistently been ranked amongst the world’s most liveable cities and Council has taken a deliberate approach to its reserves planning and management. The historic

⁴ Only approximately 1% of resource consent applications received by Council are notified under the RMA

inner town belt is protected by special legislation⁵ (which would fall outside the scope of the proposed UDA legislation) and Council also has a policy document guiding its management and decision making for its rural-urban fringe reserves network known as the “Outer Green Belt”⁶.

- 3.13 Notwithstanding the above there may be instances where improved public space outcomes, including new locations, could be enabled through use of this power – noting that an engagement driven masterplan process would enable public input and help derive better outcomes.
- 3.14 However, to ensure protection to the City’s reserve network from inappropriate development Council reiterates the importance of the proposed power of veto being maintained for TLAs *and* responsible use of substantive powers.

Infrastructure levies and value capture

- 3.15 Council would like to see this aspect of the proposal further developed as it has the potential to access revenue streams that could improve the viability of development projects and deliver significantly improved community outcomes. The expense and associated underinvestment in critical infrastructure (e.g. stormwater, sewer and road networks) is a major issue facing TLAs throughout New Zealand. There are many instances where the cost of upgrading or providing main trunk infrastructure is beyond TLAs to fund or efficiently cashflow under existing legislative mechanisms (e.g. rates and development contributions).
- 3.16 In this context Council is supportive of the proposal to make infrastructure levying powers available to UDAs and would like to see this aspect of the proposal given greater thought and definition. In particular Council would like government to further investigate the ability of UDAs and TLAs to capture a proportion of “betterment” or “value uplift” accruing to private property from UDA led projects. For private landowners this is a genuine “windfall gain” resulting from public sector investment (i.e. privatisation of value accruing from public investment) and therefore Council considers the matter as deserving of attention.
- 3.17 Executed poorly value capture mechanisms can present natural justice issues so Council suggests that further investigation into this matter focus on fair and equitable ways for betterment to be captured.

⁵ Wellington Town Belt Act 2016

⁶ Outer Green Belt Management Plan 2004

4 CONCLUSION

- 4.1 Council is supportive in principle of the proposed UDA legislation. The mix of tools proposed in the discussion document will can be useful to deliver large scale and complex urban outcomes that would be difficult under existing settings.
- 4.2 Council is also receptive to the idea of working closely with central government on redevelopment opportunities within Wellington City. The Crown is a significant landowner in the City and working with Council (and with the benefit of the proposed UDA legislation) there are opportunities to deliver significant strategic projects that could enhance housing supply and city resilience, for example.
- 4.3 Turning back to the mechanics of the proposed legislation Council's support is contingent upon maintaining the TLA power of veto *and* responsible use of the substantive powers. Accordingly Council asks that these matters be given clarity and emphasis as the proposal is further developed.
- 4.4 The power of veto would give Council comfort that decisions made for UDA led projects in the City could not be made without appropriate consideration of Council's strategic planning framework; existing infrastructure network and planned investment in new infrastructure. Council views this as a matter of respect for local decision making and responsible use of public money. This theme underpins Council's feedback on specific aspects of the proposal as set out above (e.g. the development plan process, reserve revocation).
- 4.5 Council also considers responsible use of substantive powers to be of fundamental importance. Used inappropriately these pose significant threats to private property rights; sound regulatory decision making; local democracy and local amenity.
- 4.6 Council has also made specific, technical suggestions that it believes could improve the proposal both in terms of delivering better urban outcomes and protecting the interests of key stakeholders in UDA led projects, both of which would ultimately make legislation more enduring and effective.
- 4.7 Thank you for the opportunity to make this submission. Council intends to remain engaged in the process surrounding this proposal including making a further submission should it progress into a Bill.

3. Operational

JOHNSONVILLE LIBRARY PROJECT: REQUEST FOR EXTRA FUNDING

Purpose

1. There has been a significant redesign of the new Johnsonville Library to stay within budget and allow the integration of the adjacent kindergarten. Following the Councillor workshop on 19 April 2017, this report presents a request to fund six items listed.

Summary

2. Progress in the last year has focused on reaching agreement with Whanau Manaaki Kindergarten (WMK) about purchasing the adjacent kindergarten site and landing a design proposal that is within budget (\$19m). A revised preliminary design that removes the basement car park, reduces the floor area, and leaves the kindergarten in place during construction has allowed the design team to land a project within budget. However, this is achieved by omitting elements that either have revenue attached (café fitout), risk attached (construction contingency), or are ancillary to the project (public toilets, pool works, and wider campus landscaping).
3. We are seeking permission for contracts being raised inclusive of these additional expenditure items – the total package would be \$3.27m. Contracts are scheduled to be let in October 2017. There would be no additional funding required for the 2017/18 year but approving the additional items would create a funding commitment in the 2018/19 Long Term Plan process.

Recommendations

That the City Strategy Committee:

1. Receive the information.
2. Recommend to the Long-term Plan and Annual Plan Committee to approve additional funding to be considered for inclusion to the 2018/19 Long-term Plan.
3. Agree for officers to enter into contract for the entire 2017/18 year for these additional expenditure items:

a. Construction contingency	\$1.5m
b. Café fitout	
(i) "Hard fit out" eg interior walls, floor, plumbing, ventilation and cabling	\$498K
(ii) Tenant fit out	\$137k
c. Public toilets	\$300k
d. Keith Spry Pool ancillary works	\$435k
e. Landscaping to Memorial Park and wider campus	\$300k
f. Covered walkway to Johnsonville Community centre	\$100k

TOTAL \$3.27m

Background

4. The Long Term Plan included provision to build a new library in Johnsonville next to the community centre and pool as a community hub over three years at a cost of \$16.5m. The new library is intended to be the flagship facility for modern library services, to showcase the efficiencies and improved customer service from operating community facility as an integrated hub, and to create the social infrastructure to support higher density residential development in the Town Centre.
5. The project is led by a steering group comprising senior staff and a representative from the Johnsonville Community Centre. The Building Intelligence Group has been engaged to manage the project and Athfield Architects are the architects to the project.
6. In December 2015, ELT supported a design option that involved purchasing the adjacent kindergarten to create a development site that would deliver the best outcome for the library, open space provision, parking and connectivity, and urban design for the Town Centre. This design option took the total cost of the project to \$19m. The Council approved the first tranche of additional funding in the current financial year.
7. Negotiations with Whanau Manaaki Kindergarten (WMK) have been constructive yet challenging. WMK required a presence in the Town Centre which severely limited the permanent relocation options and created cost and process challenges for finding suitable temporary sites.
8. By October 2016, we had landed on a proposal to integrate the kindergarten into the development and to temporarily relocate the kindergarten to a landscaped area on the corner of the block during construction. We had also agreed with WMK a set of working principles for a development agreement that involved the Council offering a rent free period in lieu of purchasing the site.
9. However, the project has been caught-up in the broader upswing in the construction sector and the revised cost estimate for the proposal was \$2.6m over budget (\$21.6m compared to a budget of \$19m). This prompted the project team to revisit key elements of the design to bring the project within budget. The major moves included:
 - Removing the basement car park
 - Leaving the kindergarten in place during construction
 - Reducing the floor area and simplifying the roof structure
 - Excluding the café fit-out (noting that there is an unbudgeted revenue line for the café that could off-set fit-out costs).

a. Additional items

10. The following is a list of additional items that officers recommend be undertaken in conjunction with the revised project to complete the community hub:

Elements directly related to the new library development		
Construction contingency	\$1.5m	It is imperative that we set the construction contingency at 15% which requires an additional \$1.5m. Construction contingency is currently at 6% to get the project within budget. While, the construction risk has been reduced with the removal of the basement car park and allowance for the construction market upswing is embedded in the revised cost estimate, it would be prudent to increase the construction contingency as geotech risk

		remains and the construction market is forecast to continue to strengthen.
Café fit out	(i) \$498k (ii) \$137k	(i) "Hard fit out" that we require to ensure the space is fit for purpose for leasing eg interior walls, doors and floor; plumbing, ventilation and cabling (ii) Tenant fit out The café was the most commented item during community engagement during the design process. The secure line for the library extends to external walls of the café making it a key element of the customer experience. So it makes sense to the Council to have control of the café fit-out. A specific café designer was engaged to identify the optimal use, size, and configuration for the café. The size of the café was enlarged in the revised design so that the café could offer a full service, seven days a week. There is increased rent revenue (compared to leasing the shell) but this has yet been estimated. (The earlier total of \$765k included \$129k already in the base build .)
Consequential elements relating to Council's facilities		
Public toilets	\$300k	The provision of public toilets come under the Council's Public Conveniences Policy. 200. The divestment of the current Johnsonville library triggers the need to relocate the public toilets next to the library. While the Library and Pool have public toilets available when they are open, Memorial Park and the café will attract adults and children outside these hours. It is proposed to nestle new toilets in vacant space created with the relocation of the entrance to Keith Spry Pool from Frankmore Ave to the internal 'street' within the new library development. (Please see extra text at "b" below.) The current library site, public toilets, flats, and substation have a RV of \$2.73m.
Keith Spry pool ancillary works	\$435k	The relocation of the pool entrance triggers ancillary works that would be prudent to undertake while the library development takes place. These works will improve the customer experience and include relocating the spa and sauna, and releveling the vacant play space. (Please see text at "c" below)
Consequential elements relating to the community facilities campus		
Landscaping to Memorial Park and wider campus	\$300k	There is provision in the design for landscaping work along the western edge of the library (including a courtyard for the café and access to Memorial Park). The design excludes landscaping across Memorial Park and across the entire block to reinforce the identity of the block as a campus of community facilities.
Covered walkway to Johnsonville community centre	\$100k	Representatives from the Johnsonville Community Centre have requested the design include a covered walkway to support better pedestrian connections between the community centre and the library/pool. The walkway is not essential to the functioning of the campus but may be considered an act of good faith or reparation given the design involves demolishing the youth room at the Community Centre. It would be an open walkway and will support good CPTED principles; it would not be a tunnel.

b. Public Toilets

11. The divestment of the current Johnsonville library triggers the need to relocate the public toilets next to the library. This would leave the Johnsonville town centre without 24/7 toilets. While the Library and Pool have public toilets available when they are open, Memorial Park and the café will attract adults and children outside these hours. It is proposed to nestle new toilets in vacant space created with the relocation of the entrance to Keith Spry Pool from Frankmore Ave to the internal 'street' within the new library development.
12. The Public Conveniences Policy 2000 (Principle 4.1 Availability) indicates public conveniences are appropriately located in the central business district and suburbs across the city. Special attention is paid to areas with high resident and tourist visitation numbers.
13. The recently adopted Play Spaces policy specifies that Memorial Park is categorised as a community play space and specifies that ideally community play spaces have toilets at a park or nearby.
14. Whilst the adjacent library will have toilets available during certain hours, it means that outside of those hours there will not be toilets available to the users of this community play space. This is a heavily utilised community play space.
15. It is recommended that the Keith Spry Pool site be used. It is expected that the current library will be sold therefore the Pool site is recommended as part of the community hub and adjacent to Memorial park. It is not felt that negotiations with private property and business owners in the Johnsonville CBD will result in an alternative site.

c. Keith Spry Pool ancillary works

16. The upgrade of Keith Spry Pool initially comprised of a programmes pool, children's water play area, new sauna and spa pools and new changing rooms for the main pool. Following confirmation that there was an option of the new library being built adjacent to the pool the upgrade was staged to allow for the possibility of the integration of pool reception into Johnsonville Community Hub Project.
17. Stage 1 of Keith Spry Pool redevelopment was completed in February 2015 and consisted of the construction of the programmes pool, children's water play area and the new changing rooms for the main pool. Stage 2 was to be incorporated into the library project and consisted of the relocation of the reception area, new spa and sauna area at the southern end of the building and reconfiguration of the reception and staff areas at the northern end of the building.
18. It is critical that at the time of building a new reception entrance into the pool that other works including new spa pools and sauna happen at the same time as this will save money and avoid future disruption for customers and lost revenue. If a temporary wall is going to be put up for the new pool entrance it is logical to extend the wall along the whole southern end of the pool and do all of the work at the same time. The completion of this work would also allow the programmes pool and children's pool to remain open during the next main pool maintenance closure scheduled for 2021.

d. Next project steps

The project next steps in the project are:

July 2017	Complete detailed design
October 2017	Obtain building consent and resource consent

	Complete main contractor procurement
November 2017	Begin construction
February 2019	Complete Stage 1 – Construction of library, new kindergarten, and pool entry
April 2019	Complete Stage 2 – Car park, landscaping, and kindergarten removal

Discussion

3. As above.

Options

4. N/a

Next Actions

5. Agreement is sought for extra funding as per table on point 10.

Attachments

Nil

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SUPPORTING INFORMATION

Engagement and Consultation

There has been a community engagement programme running throughout the design process. The next phase of community engagement will take place in June and July this year. It will focus on seeking feedback on the use of the library spaces (particularly the Makerspace) and on potential car parking solutions during the construction period.

Treaty of Waitangi considerations

We have been engaging with Te Rūnanga o Toa Rangatira Incorporated and Port Nicholson Block Settlement Trust on how best to reflect the cultural heritage of Mana Whenua into the design of the new library and community hub.

Financial implications

The paper seeks Council permission for the CEO to approve contracts that includes additional items related to the new library development on the understanding that funding will be committed in the 2018-28 Long term Plan. This decision has no impact on funding allocated in the current and next financial year.

Policy and legislative implications

The need for a sub-regional library to serve the northern suburbs and be part of a community hub emerged from the Community Facilities Policy 2010 with funding consulted on as part of the 2015-25 Long Term Plan and 2016-17 Annual Plan processes.

Risks / legal

There are no risk or legal implications arising from this report.

Climate Change impact and considerations

There is no specific communications exercise arising from this report. The Council's decision on this matter has a bearing on the specific development we will seek feedback on in the next phase on community engagement as part of the design process.

Communications Plan

There is no specific communications exercise arising from this report. The Council's decision on this matter has a bearing on the specific development we will seek feedback on in the next phase on community engagement as part of the design process.

Health and Safety Impact considered

Safety in design practices are embedded into the design process. We have developed a Safety in Design register that identifies risks and measures to eliminate or minimise the risk of injury throughout the lifecycle of the building.