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## Urban Development Act 2020

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The Urban Development Bill 2020 passed into legislation on 6 August 2020, becoming the Urban Development Act 2020 (*Act*).

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The purpose of the Act (and the end to which its powers are to be deployed) is to facilitate urban development that contributes to sustainable, inclusive and thriving communities. The primary "beneficiary" of the Act is Kāinga Ora—Homes and Communities (*Kāinga Ora*), the Crown entity established in 2019 with the objective of contributing to sustainable, inclusive and thriving communities through, amongst other things, initiating, facilitating or undertaking urban development.

### **Powers given to Kāinga Ora**

The Act provides Kāinga Ora with a "tool-kit" of statutory powers, a number of which are, in effect, modified versions of existing development powers currently available to local government. Included in this "tool-kit" are powers relating to the planning and consenting of urban development projects, land acquisition, infrastructure development powers, and funding mechanisms.

Most powers apply only to "specified development projects", but some powers also apply to any urban development project initiated, facilitated or undertaken by Kāinga Ora. For example, Kāinga Ora is empowered to acquire land for any urban development project.

### **"Specified development projects"**

The establishment of a "specified development project" allows Kāinga Ora to access the full suite of statutory powers to facilitate complex development projects.

The process for establishing a specified development project under the Act can be initiated by either Kāinga Ora or the Ministers of Urban Development and Finance (acting jointly). In either case, Kāinga Ora must engage with; Māori entities with an interest in the project area, hapū associated with any former Māori land in the project area, and with key stakeholders including local authorities, Heritage New Zealand Pouhere Taonga and the operators of affected infrastructure. Kāinga Ora must also invite public feedback on the key features of the project.

The Ministers may accept the recommendation that the project be established as a specified development project where it meets identified criteria, including whether the project objectives are consistent with the purpose of the Act and the national directions under the Resource Management Act 1991.

Kāinga Ora must then prepare and seek public submissions on a draft development plan

for the project. The submissions on the draft development plan are reviewed by an independent hearings panel, which then recommends to the Minister for Urban Development whether to approve or amend the draft development plan.

### **Powers relating to "specified development projects"**

Once the development plan takes effect:

- Kāinga Ora becomes the "consent authority" for resource consent applications in the project area;
- only designations that have been identified in the development plan have effect in the project area. Kāinga Ora then becomes the territorial authority for the purpose of considering notices of requirement lodged by other requiring authorities;
- certain statutory powers relating to reserves, conservation interests, infrastructure and funding mechanisms may be exercised to further the project;
- existing planning instruments under the Resource Management Act 1981 may be amended, overridden or suspended by the development plan.

### **Comment**

The Act is a key feature in the suite of Government-led initiatives designed to support the creation and delivery of well-functioning urban environments. While the tools available to Kāinga Ora under this Act are powerful, the process for accessing them provides ample opportunity for Ministerial decision-making and therefore judicial oversight. These consultative and decision-making requirements are likely to (appropriately or otherwise) limit the number of projects that will be suitable candidates for progression under the Act. However, for projects facing significant barriers, the Act can offer a comprehensive pathway to facilitate their development where they will contribute to sustainable, inclusive and thriving communities. Navigating the different stages of decision-making under the Act will require considerable skill and strategic nous.

For any questions on the Act and/or the COVID-19 Recovery (Fast-track Consenting) Act 2020, and how these alternative processes might be used or impact developments, please don't hesitate to contact [Lauren Semple](#), [Francelle Lupis](#) or [Jeannie Warnock](#).

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