

Submission: Kainga Ora Homes and Communities Bill 2019

Prepared by New Zealand Planning Institute (NZPI)

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Introduction and Executive Summary

The Kainga Ora – Homes and Communities Bill (the Bill) was introduced into Parliament on 31 May 2019. The Bill is intended to establish Kainga Ora – Homes and Communities (KHC) as a new Crown entity bringing together Housing New Zealand Corporation (HNZC), HLC (Homes. Land. Community. – which itself was formed from the Hobsonville Land Company), and the Kiwibuild unit of the Ministry of Housing and Urban Development (MHUD). In Part 2 the Bill establishes a Government policy statement on housing and urban development.

NZPI appreciates that the Bill is primarily framework legislation that establishes a new Crown entity and while NZPI generally supports that objective we are concerned at the lack of explicit recognition of the role of local government in urban development. NZPI is interested in the idea of a Government Policy Statement on Housing and Urban Development, but has questions and suggestions in light of the imminent release from the Ministry for the Environment of the related National Policy Statement on Urban Development.

The Bill is the first of two pieces of legislation applying to the new entity. A further Bill is expected later this year which will set out the powers that the new entity can assume to enable it to carry out urban development activities in specified urban areas.

In May 2017 NZPI's submission to the Ministry of Business, Innovation and Employment's (MBIE) "Urban Development Authorities: Discussion Document" (dated February 2017), supported the establishment of urban development authority (UDA) type entities but raised issues relating to its powers. NZPI continues to have a keen interest in the powers of UDAs and how they can be applied, and will be submitting in that regard when the next bill is available for consideration.

Submissions

Considered narrowly, the Bill appears to have the two functions of establishing KHC as a new Crown entity (by transferring assets and functions from existing entities), and creating a Government policy statement process whereby Government can direct KHC functions and operations to meet Government's expectations for housing and urban development. In effect the Bill establishes an entity and a process for building a statement of intent for that entity. However the Bill goes further than that in respect of the proposed Government policy statement.

NZPI has two main sets of submissions relating to the Bill, where changes and improvements are required to clarify and focus its function, purpose and effect:

- The role of local government
- The content and function of the Government Policy Statement on Housing and Urban Development

The Role of Local Government

NZPI appreciates and understands that there will be further detail relating to the role of local government in KHC projects and activities in the second bill anticipated later this year. However we are concerned that the first framework legislation (contained in the Bill) does not set the scene or establish the ground rules for the relationship that is expected between local government and KHC. In failing to do so the Bill does not adequately address the risks and inefficiencies that will result from a confusion of roles and responsibilities]. This will potentially add costs to local government and create significant inequity within communities, including on the demand for infrastructure. For example – if a KHC project resulted in significant generation of stormwater, the cost of managing that would pass to the community down stream from the KHC site, but with very little ability to anticipate the need to modify the system, and little recourse to appropriate cost share with territorial authorities.

The Bill draws attention to the Regulatory Impact Statement that relates to the Bill. Paras 472 to 486 consider the role of local government, and recommends, somewhat ambiguously:

486. We therefore recommend that the territorial authorities have a veto power, with a reserve power to override. The importance of infrastructure means that territorial authorities will have an effective veto, irrespective of whether the legislation gives them one. It is better to empower territorial authorities, than sideline them. However, given that in some cases it may be possible to overcome any infrastructure funding constraints, we think it would be useful to provide central government with the means to proceed if necessary.

NZPI submits that the Bill should have much greater recognition of the significant overlaps that exist between the functions of local government and those of KHC, and that the functions and operating principles of KHC be expanded to ensure that collaboration and agreement be the normal relationship expected between local government and KHC, so that options such as “veto power” or “means to proceed” are exceptions to that norm.

The proposed Government Policy Statement on Housing and Urban Development

NZPI understands and supports the need for a process whereby the Government can direct KHC activities, and that appears to be the main purpose of the proposed Government Policy Statement on Housing and Urban Development (GPSHUD). However the Bill does not limit the GPSHUD to that end. It requires the GPSHUD to include:

- The government's overall direction for housing and urban development AND the government's priorities for housing and urban development,
- AND how the government expects other agencies to support that direction and those priorities.

Other agencies could include territorial authorities or their development entity (eg Panuku - Auckland Council's development entity). NZPI is concerned to ensure there is legislative clarity in respect to the various laws and statutes that may need to be had regard to, or given effect to, by planners or other professionals when carrying out their duties in relation to plan making and development application processing and preparation.

For example it is understood that a suite of related NPS's are shortly to be notified by the Ministry for the Environment: on Urban Development, Versatile Soils, and Freshwater. Together these NPS's will provide national direction on managing trade off's between enabling development activities (urban development and housing in particular) and protecting valuable soil and freshwater resources.

NZPI submits national guidance will be essential to clarify the relationship between these two sets of urban development national direction statements, to indicate how they are each to be interpreted, and to state which of them takes priority in assessing and processing development applications.

NZPI is aware of the debates that are occurring in Australia at Federal and State levels over what planning frameworks are needed to best manage and deliver rapid urban growth. These debates have explored population and settlement patterns, infrastructure finance and construction, and urban development and housing. NZPI suggests that the proposed GPSHUD goes too far – legislative over-reach – in regard to the activities of KHC, but does not go far enough in setting out a national plan for urban growth.

A government policy statement providing a national settlement and spatial plan to accommodate urban growth and deliver supporting infrastructure in partnership with local government would complement the resource management national direction shortly due from Ministry for the Environment.

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