

14 February 2020

Committee Secretariat
Environment Committee
Parliament Buildings
WELLINGTON

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URBAN DEVELOPMENT BILL

1. Thank you for the opportunity to submit on the Urban Development Bill (the Bill). Kāpiti Coast District Council (Council) supports the Bill in principle, but has concerns about how the powers provided to Kāinga Ora will impact local authorities' roles and responsibilities to strategically plan and deliver outcomes for their communities.
2. We all recognise the current housing crisis, with affordability and homelessness becoming an ever increasing problem creeping to all corners of New Zealand. We are also conscious of the challenges faced in delivering solutions through our current systems and the lack of tools available to help deliver the outcomes we all want for our communities.
3. While we agree and support shared objectives to increase the supply of housing and develop well-functioning urban areas, Council believes that allowing these powers to Kāinga Ora, without more substantive checks and balances, is a significant step away from democracy.
4. While we welcome the ability to work alongside Kāinga Ora to facilitate and deliver transformational urban development projects, it is important that these are connected to our communities, and do not leave a legacy of failed master planning, crippling debt and mismatched infrastructure. Specifically, we acknowledge the need, and welcome the opportunity, for Kāinga Ora to work alongside local authorities to achieve shared objectives for sustainable, inclusive, and thriving communities. The role Kāinga Ora can play is particularly important alongside other Government tools, such as the proposed National Policy Statement on Urban Development, to enable Councils to overcome some of the financial and market limitations that can prevent the realisation of the aspirations we have for our urban areas.
5. Council is also pleased to note that the recognition of Māori interests and participation in the Kāinga Ora-Homes and Communities Act 2019 is continued and reflected in the provisions of this Bill, providing Māori and iwi a greater role and voice in shaping and delivering urban development outcomes. However, as highlighted in recent submissions on the National Policy Statement on Urban Development and changes to the Resource Management System, Government and Kāinga Ora will need to consider how they can best provide additional support and capacity to Māori and iwi, if they hope to meet the Bill's outcomes for engagement and urban development.

6. This submission identifies a number of changes to the Bill to provide for further checks and balances to recognise and ensure connection to Council's role in shaping urban outcomes through land-use and infrastructure investment processes.
7. Council would like to speak to the Committee on these points.
8. Council also supports the submission made by the Society of Local Government Managers (SOLGM) on the Bill.

Accountability and working in partnership

9. Council recognises the importance of working in partnership with Kāinga Ora to achieve sustainable, inclusive, and thriving communities. Council makes a series of recommendations, to encourage wider community involvement, to ensure and enable local government involvement, and to recognise a wider range of planning documents in the development of SPDs.
10. The Bill currently gives Kāinga Ora discretionary powers as to whether or not it consults with the wider community who may not live or own a property in a project area when developing a draft development plan. As specified development project (SDPs) are likely to have significant impacts on communities surrounding, or who visit, or transit through an area covered by a SDP, we suggest a change to Clause 70(3) of the Bill to remove "may at its discretion" with "must make a reasonable attempt to" to provide for these community and stakeholder views to be identified in the early stages of drafting a development plan.
11. Local authorities have an enduring role to play before, alongside, and after any development projects delivered with Kāinga Ora. Given the nature of this role, it is important that local authorities are appropriately recognised and included in the structure and delivery of all development projects in their area. This is particularly important to help ensure alignment and reflection of local authorities' land-use and infrastructure investment processes. Ensuring and supporting local authorities' participation within projects will also greatly improve the achievement of shared outcomes from any projects. Council supports SOLGM's recommendation that Kāinga Ora be required to appoint at least one local authority nominee to each project governance body.
12. Council is also conscious of the additional capacity, time and costs a potential SDP will place on local authorities. This could have a significant impact, particularly on smaller Councils. Local authorities will be required to increase their capacity in order to effectively support the development of a SDP process with Kāinga Ora. Unless signalled early into future planning processes, the advent of a SDP will require local authorities to seek additional resource or meet costs by redirecting existing commitments. Both options are significant fiscal decisions impacting on existing commitments. Council recommends that additional guidance, tools and resources are made available to local authorities to help them build capacity to effectively engage with Kāinga Ora.
13. Supporting and developing capacity across key participants will also be important if development projects are to achieve the best long term outcomes for an area. While we appreciate statutory timeframes provide a minimum basis that may be applied when developing a SDP, we are also conscious of the time needed to develop capacity early in any engagement process. Clause 43 is one of the first timeframes affecting local authorities during the process to scope and develop a SDP. The timeframes currently provide 10 working days for a Council to respond to a project assessment report. While we support SOLGM's recommendation to extend this timeframe, Council supports an option of 60 working days to enable engagement and decisions to be sought from elected members. Given the extent of potential change a SDP could create, it is important that adequate time is provided for an internal assessment by staff, but also the opportunity to have meaningful discussion and informed decisions from elected members, who are ultimately accountable for Council's decisions.

14. Clause 69 currently recognises regional and district planning documents, regional transport plans, long-term plans and iwi management plans as relevant considerations in the preparation of a development plan. Given the role of these documents in shaping and delivering community outcomes, and the extensive community engagement involved in their development, Council recommends that they should be required to have “particular regard” given to them, which provides a higher level of duty to consider them and aligns with similar considerations in the Resource Management Act.
15. We also note that this list of documents in Clause 69 currently excludes any other non-statutory strategies and plans that may reflect community aspirations, are collaboratively developed and relevant to future plans (e.g. growth plans, spatial strategies, and local outcome statements). Council recommends these documents are recognised in the list under Clause 69 and that clause 69(1) be amended to also recognise community aspirations with “particular regard to each of the following documents and any community aspirations, to the extent that they are relevant”.
16. Clause 2(4) of Schedule 3 of the Bill currently sets out areas of collective knowledge for an independent hearing panel. Council recommends that the addition of “local strategies, plans and outcomes” are also added to the list to ensure community outcomes and aspirations are recognised and reflected in decision making processes.
17. Given the potential extent and untested nature of Kāinga Ora’s new powers and processes, Council supports SOLGM’s recommendation for a review following completion of initial projects or in five years’ time.

Funding and financing implications for local authorities

18. The Bill provides Kāinga Ora the ability to charge rates, development contributions, a betterment tax and administration levies relating to functions it chooses to exercise within a SDP. The merits of using local property taxes for central Government purposes was raised under the Productivity Commissions’ Local Government Funding and Finance Review. Council’s submission on the Review opposed the use of local taxes for central government purposes, highlighting that Council’s already face ongoing challenges in balancing the availability and affordability of funding to meet their current obligations. This is particularly relevant in our district given that approximately 75% of our income comes from rates with the remainder from fees, the median household income is well below the NZ average, and roughly 40% of our ratepayers are on fixed incomes. For this reason, Council opposes the powers for Kāinga Ora to take a local property or betterment tax, with the viability of SDPs determined on the basis of their ability to be self-funded, including funding from general taxation.
19. The Bill also proposes that local authorities’ rating systems are used as the collection mechanism for Kāinga Ora. The use of Council as a collection agency for central government mechanisms has been identified in a number of recent government proposals. While Council currently collects rates for Greater Wellington Regional Council, Council has recently highlighted concerns that the further collection of central government levies from local government rating processes would raise potential issues around costs (to administer systems), complexity (multiple charging regimes), accountability (blurs central government purposes with those of local government) and affordability (for ratepayers). Given the potential for Kāinga Ora to face these challenges and costs for each SDP, Council recommends that a simpler alternative would be for Kāinga Ora to develop and administer its own process directly.
20. If local government rating processes are considered as the collection vehicle; Councils should have the ability to ensure this takes the form of a separate bill to avoid any ratepayer confusion, and that the costs of this are able to be recovered from Kāinga Ora without recourse onto ratepayers. We would also support SOLGM’s recommendation that clause 199 be amended to require Kāinga Ora to notify local authorities of the rates

they have set by the 10th of May, preceding the commencement of the financial year for which the rates have been struck. This will enable any supporting work to be undertaken ahead of time and for ratepayers to have transparency and certainty of charges affecting them.

Potential risks to infrastructure provision and delivery

21. With Kāinga Ora's powers to provide three waters, roading and community infrastructure within a SDP, it's important that the processes to identify and develop plans for any SDP are able to appropriately identify, understand and reflect impacts on a local authority's land use planning, wider network capacity and long-term infrastructure investment plans. This requirement should also identify the potential vesting of assets back into a Council to ensure the financial implications can be identified, understood and planned for through Council's Long-Term planning requirements, early in the formation of a project.
22. It is also important that any network infrastructure is designed and developed in accordance with the standards established for local authorities' networks. This will ensure that the design and specifications will align with any of Council's short and long term infrastructure plans and minimise risks of any stranded assets or costs due to any under or over investment of network infrastructure. Council recommends that the Bill makes provision for any additional infrastructure to be agreed to meet Council's sustainable development standards for land use and infrastructure development.
23. The Bill includes provision for relevant assets to be vested back to local authorities. Given the financial implications of receiving vested assets, Council would like to clarify the assumption that any debt created through the development of an asset will remain on Kāinga Ora's balance sheet until repaid, and is not expected to be received by Councils alongside the vesting of assets.
24. Similarly, given NZTA's co-funding of local roading assets, Council would also like assurances that any road assets to be vested back to Council will meet NZTA's funding criteria. To ensure this, Council recommends the Bill recognise alignment with NZTA priorities within Kāinga Ora's road controlling functions. We also recommend that clause 26 'duty to cooperate' should be extended to include NZTA.
25. Lastly, given the significance of implications and assumptions relating to the cost and timing of infrastructure, Council recommends that provisions for consultation on an infrastructure statement alongside a draft development plan should enable submissions on the infrastructure statement (including an independent hearing) if warranted by a local authority. This measure provides a local authority with the ability to work through any issues that might remain unresolved as part of the final detail of developing a plan for a project area.

Conclusion

26. We all recognise the need to take action to address the housing crisis, and that solutions to date have not provided the means for government and councils to solve this issue. We are not able to deliver solutions in isolation and it is important that we focus beyond the delivery of housing to the development of communities. A 'whole of government' approach to housing and urban development is required to ensure current and future needs are met and to achieve goals for sustainable, inclusive, and thriving communities.
27. While Council is supportive of the role and powers provided to Kāinga Ora to help overcome and address current constraints, we also have real concerns over how Kāinga Ora might be implemented and impacts on the accountability of community outcomes, funding and financing implications and risks to infrastructure provision and delivery on both local authorities and their communities.

28. Kāpiti Coast District Council would welcome the opportunity to discuss and explore the potential to work with Kāinga Ora to achieve shared outcomes across the Kāpiti Coast Community.

Yours sincerely



K. Gurusathan JP, MA

MAYOR, KĀPITI COAST DISTRICT

