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Environment Committee
Select Committee Services
Parliament Buildings
WELLINGTON 6160

RE: Submission on Kāinga Ora–Homes and Communities Bill

This submission is by Hill Young Cooper, a strategic resource management and environmental policy and planning consultancy with offices in Auckland and Wellington.

Hill Young Cooper appreciates the opportunity to provide feedback on the Kāinga Ora–Homes and Communities Bill.

Introduction

We support the intent of this Bill for the following reasons:

- all people are entitled access to good quality, affordable housing choices that meet diverse needs;
- the provision of housing should go beyond the provision of a house to also include the provision of safe, connected, and vibrant neighbourhoods;
- the traditional urban development model of turning rural land into suburban homes is insufficient (and inefficient) in meeting existing and future housing needs;
- providing choices about dwelling size, tenure, and typology (e.g. tiny houses) is key; and
- housing needs to be integrated with access to jobs, amenities and services.

We understand that the three primary actions the Bill takes to implement these outcomes is to:

1. combine Housing New Zealand and HLC with parts of Kiwi Build into a new entity - Kāinga Ora;
2. provide for a Government Policy Statement on urban development; and
3. provide for Kāinga Ora to undertake three roles:
 - a) build public housing
 - b) undertake development projects for defined urban areas
 - c) help co-ordinate and lead wider urban development.

We note that a second Bill scheduled to be introduced later this year will provide Kāinga Ora–Homes and Communities with the tools and powers to implement urban development projects, such as land acquisition and plan making and consenting powers.

We further note that separating methods from objectives may lead to some disjoint between the objectives of the new authority and the tools it has to implement those objectives. While the actions set out in this Bill are potentially positive, the overall framework needs to ensure that objectives are clear and that the appropriate range of tools are in place to implement these objectives. In particular is the concern that the

objectives and methods required for the agency to fulfil its public housing role are quite different to the objectives and methods needed to fulfil Kainga Ora's role as leading or co-ordinating urban development.

Part 1 – Preliminary provisions and establishment of Kāinga Ora–Homes and Communities

We consider that the proposed Act is lacking substantive detail as to the objectives for Kāinga Ora, and urban development more generally, if Kāinga Ora is to lead and co-ordinate this development.

Clause 12 Objective of Kāinga Ora–Homes and Communities

We consider that the objectives need to be broader to reflect the wide range of issues that overlap and interact when addressing sustainable housing and neighbourhoods. At the very least, the objectives in Clause 12 need to cover the range of actions set out in Clause 14.

The wider set of objectives need to apply to the new authority, as well as informing the Policy Statement.

We consider that the objectives should include:

- provision of warm, dry and safe housing;
- maintaining and expanding over time a stock of public and community housing that meets the housing needs of the most disadvantaged;
- promoting mixed, inclusive communities with diverse affordable housing choices across all neighbourhoods;
- good quality urban design of the associated public realm;
- environmental responsive, resilient, low impact (water sensitive) urban forms; and
- integration of land use with transport systems.

In addition to the above, the new authority should have the function of monitoring housing outcomes and investigating and implementing new tools and methods as need be.

Subpart 3 – Functions and operating principles of Kāinga Ora–Homes and Communities

Clause 13 Functions of Kāinga Ora–Homes and Communities

Clause 13 needs substantial amendment to better link the functions of Kāinga Ora to the objectives listed in clause 12 and to better define the methods available to Kāinga Ora–Homes and Communities as they relate to the three main tasks of:

- building public housing;
- undertaking development projects for defined urban areas; and
- helping to co-ordinate and lead wider urban development.

The tools needed to implement the overall objectives will vary between these three different types of urban development. In particular the Bill needs to establish the tools to implement the objectives as they relate to the third 'layer' (co-ordination and leadership of urban development).

The majority of urban development will remain market-led. While building public housing and urban redevelopment directly undertaken by Kāinga Ora–Homes and Communities will be helpful, it will inevitably be only a small proportion of all new builds.

To influence and co-ordinate market-led development so that it contributes positively to housing choices and housing needs, there is a need for a range of ‘market shaping’ tools such as:

- Inclusionary Zoning¹ (to ensure a proportion of affordable housing is included in major new housing developments);
- value capture (to help fund better local infrastructure and improved public realm); and
- land re adjustment² to help address issues of land fragmentation.

These tools sit alongside (outside) the current RMA/LGA framework and are not as directive as the powers normally associated with urban redevelopment authorities. However they are vital in helping to deliver a wide range of public benefits from market-led development. Consideration should also be given to the incorporation of entities such as Crown Infrastructure Partners into Kāinga Ora to further enable market supporting measures and actions.

Kāinga Ora and the associated Ministers should have a function of investigating and implementing such market supporting measures, with a focus on tools to promote affordable housing. We suggest that a new clause be added that provides the responsible ministers the power to introduce additional tools that support provision of affordable housing within market-led development, after some form of consultation process. For example:

Kāinga Ora may prepare a proposal to establish, amend or replace specific measures to promote and require the provision of affordable housing within larger scale urban developments after following an appropriate consultation process.

The responsible Ministers may, in their complete discretion, after considering a proposal may:
(a) recommend to the Governor-General that the proposal be established, replaced, or varied in the manner set out in the proposal by appropriate regulation or Order in Council; or
(b) refer the proposal back to Kāinga Ora requesting it to reconsider 1 or more of the aspects of the proposal; or
(c) decline to recommend the establishment, replacement, or variation of the scheme in the manner set out in the proposal.

¹ Inclusionary zoning (IZ) is an affordable housing tool that links the production of affordable housing to the production of market-rate housing. IZ policies either require or encourage new residential developments to make a certain percentage of the housing units affordable to low- or moderate income residents. In exchange, many IZ programs provide cost offsets to developers, such as density bonuses that allow the developer to build more units than conventional zoning would allow, or fast-track permitting that allows developers to build more quickly.

² Using this approach, the government pools or assembles via negotiation the various privately owned land parcels in a given area and prepares a land use plan for the overall area including designating spaces for public infrastructure and services such as roads and open spaces. It then implements the plan and provides the necessary trunk infrastructure. At the end of the process, the government returns to each landowner a land parcel proportional to their original parcel but of smaller size (for instance, 60 percent of the original land parcel)—except that the new land parcel is of a higher value because it is now serviced urban land.

This would build on and help provide a framework for the ad hoc measures that were incorporated into some Special Housing Areas under the HASHAA legislation (for example, the now common requirement for larger residential developments to include a proportion of affordable units).

Clause 14 Operating Principles.

Consistent with the above comments, this section needs to be expanded to identify the principles that should apply to all forms of urban development undertaken by Kāinga Ora, and urban development projects where the authority takes a leadership role. In particular the sub section headed 'well-functioning urban environments' needs to be amended to allow the authority to implement the objectives set out in clause 12. For example, principles could include:

- Influencing housing and development markets to support provision of quality, affordable homes
- Emphasising urban intensification
- Taking a long term view of housing and urban outcomes
- Building in resilience to natural hazards
- Ensuring land use and transport infrastructure are mutually supportive.

Clause 5 Interpretation

We consider that to assist with implementation of the above approach the Bill needs to provide definitions of key terms used in the Act. For example in various places the Bill refers to 'affordable housing'; 'public housing', 'market housing'; 'first home buyers', 'households on low and modest incomes' and 'households most in need'.

Without definitions, these terms could be easily construed to cover a wide range of outcomes, not all of which would be compatible with the objectives of the Bill. The Bill needs to recognise the housing continuum and the range of mixed public/private ownership models that exist.

Part 2 – Other matters

Subpart 1 – Government policy statement on housing and urban development

We support the overall intent of a GPS, but consider that the purpose, scope and reach of the GPS need to be better defined.

Clause 24: Content of GPS

The proposed requirement that the GPS should state the government's overall objective for housing and urban development and identify what actions the new authority should take to achieve the government's actions is totally inadequate as a purpose statement and is open to wide interpretation. For example, would the GPS allow for a government to sell down public housing stock without adequate replacement to help cover debts incurred through a failed urban redevelopment project undertaken by Kāinga Ora?

At the very least, the clause should refer to the GPS setting out the actions that the government is to take to implement the objectives set out in Clause 12.

Clause 29 Amending GPS

We do not consider it appropriate that the relevant Ministers may amend the GPS at any time, given the long-term nature of urban planning and development. The significant funding, infrastructure, and development commitments and contributions required across both local and central government, as well as within the public sector, require certainty over a long term.

We consider that Clause 29 should be amended so that ad hoc reviews must be in response to some obvious failure of the GPS in delivering the stated objectives, rather than the whim of a Minister.

Clause 22 Ministers must issue GPS on housing and urban development

In regard to Clause 22, with amendment we are supportive. We are particularly supportive of Clause 22(1)(b), (2), and (3) which respectively require the GPS to cover a period of at least 10 years, and that Ministers must review and issue a replacement GPS before the current GPS expires. It is our view that the requirements of Clause 22 sufficiently provide for amendments to be made upon review at regular intervals, whilst also respecting and providing for the long-term nature of planning and development. It is also considered that review of the GPS under Clause 22(2) would likely provide for more comprehensive consultation as opposed to amendments made by way of Clause 29.

Land use-transport integration

Integration of land use and transport is vital for facilitating urban development and to promote sustainable outcomes. The requirement for an urban development GPS should be integrated with the current Land Transport GPS.

We consider that the housing and urban development GPS and the GPS on Land Transport (GPS-LT) should, at the minimum, be developed at the same time due to the interrelated nature of transport planning and the proposed holistic approach to urban development.

Developing these two government policy statements in an integrated way will reduce the potential for overlap as to the roles and relationship of the various parties involved. By developing these GPSs together, there will be a clearer direction as to the role of the New Zealand Transport Agency and local authority infrastructure and transport planning in supporting needed urban growth and redevelopment. At the same time, implementation of the objectives of the Bill will be given a substantial 'boost'.

Suggested amendments to Clause 22 are as follows:

- 22 Ministers must issue a joint and integrated GPS on housing, urban development and transport*
(1) The Ministers must issue an integrated GPS on housing, urban development and transport (the HUT- GPS)—
(a) no later than 1 October 2020; and
(b) that covers a period of at least 10 years from the date of issue.

- (2) *The Ministers must review the HUT GPS under subsection (1) at intervals that are no more than 3 years apart.*
- (3) *The Ministers must issue a replacement HUT GPS under subsection (1) before the current GPS expires.*
- (4) *If a HUT GPS is replaced, the GPS that is replaced expires on the date that it is replaced.*

Clause 23 Preparation or review of GPS

We consider that clause 23 provides insufficient direction as to preparation of the GPS. Firstly, we consider that Regional Councils should be specifically identified and listed in clause 23 as they have a particular role in urban development at a macro level. Whilst we acknowledge that *clause 10 Membership of board of Kāinga Ora–Homes and Communities* requires the perspectives of local government to be included within the board of Kāinga Ora–Homes and Communities, we consider a wide ranging inclusion and/or consultation with regional authorities will reduce the potential for conflict and inconsistency around future development directions and ideas. This is particularly important given that Kāinga Ora–Homes and Communities are to be given planning and consenting powers under the second Bill that will enable them to override, add to, or suspend land use rules in district plans, regional plans and regional policy statements, and to issue their own resource consents.

Preparation of an integrated transport and urban development GPS should also involve collaboration with Minister of Transport and New Zealand Transport Agency.

We consider that the GPS should give effect to the National Policy Statements under the RMA (such as the National Policy Statement on Urban Development and the forthcoming statement on versatile soils). To avoid confusion and overlap and achieve integration, we consider it crucial that clause 23 requires that when preparing or reviewing the HUT-GPS, any relevant national policy statements issued under the RMA (notably the NPS-UDC and expected NPS-Urban Development) be acknowledged and taken into account. A cause for concern is the ability of Kāinga Ora–Homes and Communities to override, add to, or suspend district or regional land use rules which could interfere with provisions which give effect to NPS. Evidently, the relationship between GPS and NPS documents is potentially complex and open to ambiguity. As such it is important that this relationship is clearly set out as to what the intent and the role of each of these documents is, and how they support and interrelate with each other.

Below are suggested amendments to Clause 23 (indicated in underline). These suggested amendments reflect the level of detail in the Land Transport Management Act 2003, specifically Section 67, which we consider provides more appropriate direction for the preparation and review of a GPS.

23 Preparation or review of GPS

When preparing or reviewing a HUT GPS, the Ministers must—

- (a) *be satisfied that the GPS promotes a housing and urban development system that contributes to the current or future well-being of New Zealanders;*
- (b) ensure it is consistent with and gives effect to the objectives set out in Clause 12 and
- (c) consult and have regard to the views of —
 - (i) Kāinga Ora–Homes and Communities and persons;
 - (ii) Local Government New Zealand and representative groups; and
 - (iii) any relevant representative groups of persons who have an interest in housing and urban development in New Zealand; and

(d) take into account —

- (i) any relevant national policy statement that is in force under the Resource Management Act 1991; and.
- (ii) Other Government Policy Statements

Clause 26 Kāinga Ora—Homes and Communities

In regard to Clause 26, we consider that Kāinga Ora—Homes and Communities must give effect to the HUT-GPS when performing its functions.

Below are suggested amendments to Clause 26 (indicated in underline).

- (1) Kāinga Ora—Homes and Communities must give effect to the HUT GPS when performing its functions under subpart 3 of Part 1.

Additional comments:

Monitoring framework

The Act needs to include a monitoring requirement to keep track of the efficiency and effectiveness of the Act. The HUT-GPS should set out a national monitoring framework related to the housing and urban development objectives and measures set out in the Bill. This is vital if plans and strategies are to be made more effective and efficient over time.

Regional Input

We have also considered whether it would be appropriate to establish regional housing and urban development committees similar to the regional transport committees established under the Land Transport Management Act 2003. This could provide greater direction and integration between the various roles and responsibilities involved in housing and urban development and allow for information sharing across key agency and representative groups. This could also aid in bridging the gap between local authority planning functions under the Resource Management Act and the role and functions of Kāinga Ora—Homes and Communities. We acknowledge that Clause 10 does provide for the perspectives of local government to be included within the board of Kāinga Ora—Homes and Communities, however we consider that a more comprehensive role such as within regional housing and urban development committees may be more appropriate.

Responsible Ministers

Finally, we ask whether it would be appropriate to include the Minister of Transport and Minister of Social Development in the ministers responsible for Kāinga Ora—Homes and Communities. This seems appropriate given the nature and purpose of Kāinga Ora—Homes and Communities and the scope of the ‘urban’ GPS. We consider it important that housing and communities are considered from a holistic, ‘well-being’ perspective.

Yours sincerely
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