



14 February 2020

Committee Secretariat
Environment Committee
Parliament Buildings
Wellington

Submission on the Urban Development Bill

1. Thank you for the opportunity to make a submission on the Urban Development Bill (the Bill).
2. The Public Health Association of New Zealand (PHA) fully supports the purpose of this proposed Act 'to facilitate urban development that contributes to sustainable, inclusive, and thriving communities'. New Zealand is facing a housing crisis; this is not just a shortage of homes but a crisis in the quality of our housing stock which results in 40,000 housing- and poverty-related admissions of children to our hospitals every year ⁽¹⁾. The PHA has argued for some time that to tackle this crisis we need to change the way we deliver housing and this Bill offers a model that could result in the kind of 'transformational urban development projects' NZ needs. Moreover, solving this crisis can't be left to the market; our Government's role is key and we are delighted to see this acknowledged in the Bill with Kāinga Ora placed firmly in the driver's seat and given the powers to do the job.

Who are we?

3. The PHA is a national association with members from the public, private and voluntary sectors. Our organisation's vision is 'Good health for all - health equity in Aotearoa', or 'Hauora mō te katoa – oranga mō te Ao', and our purpose is to advocate for the health of all New Zealanders.
4. To achieve this, we provide a forum for information and debate about public health action in Aotearoa New Zealand. Public health action aims to improve, promote and protect the health of the whole population through the organised efforts of society.
5. We recognise Te Tiriti o Waitangi as Aotearoa New Zealand's founding document, defining respectful relationships between tangata whenua and tangata Tiriti, and are actively committed to supporting Te Tiriti values in policy and legislation. Therefore we applaud the requirement of the Bill that 'In achieving the purpose of this Act, all persons performing functions or exercising powers under it must take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).'
6. We actively promote full implementation of related international agreements to which New Zealand is a signatory, including the UN Convention on the Rights of the Child (UNCROC), the UN Declaration of the Rights of Indigenous People (UNDRIP), the Convention on the Rights of Persons with Disabilities, the UN Framework Convention on Climate Change and the Paris Climate Agreement.
7. We also advocate action on the United Nations Sustainable Development Goals (SDGs), in particular Goal 11: Sustainable cities and communities. The purpose of the proposed Act is consistent with the

targets of SDG11: 'to ensure access for all to adequate, safe and affordable housing, to provide access to safe, affordable, accessible and sustainable transport systems for all, to reduce the adverse per capita environmental impact of cities, and to provide universal access to safe, inclusive and accessible, green and public spaces'⁽²⁾.

Climate change and cutting urban carbon emissions

8. NZ needs to urgently reduce carbon emissions. The IPCC report 2018 warns that globally we have to cut greenhouse gas emissions by 45% by 2030 if we are to have a reasonable chance of limiting global warming to 1.5%⁽³⁾. Yet a Ministry for the Environment report in 2019 revealed that NZ's greenhouse gas emissions have increased and NZ is predicted to emit a million more tonnes of greenhouse gases in 2020 than previously forecast. Carbon dioxide from road transport and methane from dairy cattle have contributed the most to this increase⁽⁴⁾. In New Zealand urban carbon emissions encompass both transport and the built environment, which combined contribute 40% of NZ's total annual carbon emissions⁽⁴⁾. This Bill is an opportunity to get serious about cutting our urban carbon emissions. The Bill's proposed specified development projects (SDPs) are consistent with the policies experts recommend to achieve reductions in urban carbon emissions: creating compact urban developments in accessible locations, with excellent public transport and active transport (walking and cycling) infrastructure and building more sustainable buildings (insulation, space and water heating, orientation)⁽⁵⁾.
9. Cutting carbon emissions from the urban environment is essential if we want to avoid the worst effects of climate change (and meet our legal, international and ethical obligations) but would also result in many co-benefits. These include a more equitable society where those with the fewest resources can live where they are able to access the things they need to lead a meaningful life (jobs, opportunities, amenities), as well as better air quality, more active lifestyles, improved social capital, better mental health, and reduced traffic injuries, all of which will improve overall wellbeing.
10. Our Government has committed to a just transition to ensure that the effects of climate change mitigation do not unfairly burden already disadvantaged populations. This proposed legislation will facilitate that commitment by enabling Kāinga Ora to provide sustainable urban developments to the most deprived groups in NZ.
11. The PHA supports the principles for the proposed specified development projects (SDPs) outlined in the Bill and is delighted to see that the importance of integrating all aspects of urban environments into urban development projects is recognised (clause 5 (1)(i) - (v)). Taking this systems approach to urban development is essential as cities are complex systems and making them better places for people to live requires an understanding of these complexities.
12. Regarding the SDP principles we recommend that clause 5 (1)(iii) 'efficient, effective, and safe transport systems' is strengthened by changing the wording to 'efficient, effective, safe, affordable, low-emissions transport systems'. The Bill will not achieve its purpose of facilitating thriving, inclusive and sustainable communities unless there is a radical transformation in the way mobility systems are envisaged, planned and integrated into urban developments. The current reliance on

private vehicles must be actively discouraged by providing good quality, cheap or preferably free public transport (as is the case in a growing number of European cities); and active transport systems (cycling, walking) based on best design practice. Any planned developments also need to be 'future proofed' for the coming revolution in mobility which has already begun with the advent of bike share schemes, electric bikes, e-scooters, e-skateboards etc.

Kāinga Ora engagement with Māori

13. We strongly support the requirement in the Bill for engagement with Māori (Clause 35) but this must, of course, be not just engagement as a tick box exercise but meaningful engagement. It is not clear from the draft Bill what 'engagement' means or who decides on the definition. We are also concerned that it is proposed that 'Early engagement' may be deemed as fulfilling a requirement for engagement (clause 36). This provision seems to fall short of the true intent of 'engagement', which should be required for the entire process not just the early stages.
14. It is also not clear how it is decided what constitutes the 'matters relating to the project that affect, or are likely to affect, that person or in which that person has an interest' (clause 36 (2)(a)). We believe the people affected by a proposed project might be in a better position to decide how they might be affected and perhaps better able to identify themselves. Therefore opportunities need to be offered to people to come forward if they feel they might be affected and to engage on how they might be affected.

Composition of Independent Hearing Panels

15. In the Bill the proposed Independent Hearing Panels (IHP) have an important role with significant powers. The Bill states that an IHP must have at least three members. We recommend that at least one member must be Māori, to be nominated by 'the relevant local authorities and iwi or hapū representatives from within the project area' to ensure Māori have proper representation on the IHPs.

Transfer and acquisition of Māori land - ensuring appropriate safeguards are in place

16. The PHA is pleased to see the recognition of 'the aspirations Māori have in housing and urban development, as potential development partners', and of the significant and harmful impact on Māori from 'historic and current pressures in housing, and through their connections with the land and other natural resources'. We strongly support the protections the Bill will establish 'for land in which Māori have interests and a strong expectation that Kāinga Ora will identify and support Māori aspirations for urban development in specified development project areas, including through the opportunity to participate in development'. It is imperative that this Bill does protect the interests of Māori and doesn't deprive or disadvantage them any further.
17. We support the stipulation that no powers within the proposed legislation can be used with respect to the development of Māori customary land, Māori reserves and reservations, or common marine coastal area in which customary rights have been recognised. It is imperative that these lands are

protected from compulsory acquisition for development, and that consent is sought from mana whenua in the other categories of Māori held land as outlined in this Bill.

18. We note that land may pass out of crown ownership through development. We also note that Kāinga Ora may dispose of the land without being required to offer it back if housing and renewal works are completed on the land. We welcome the exception to this where the land is former Māori land. We recommend that Kāinga Ora is required to consult with the land's former owners and relevant hapū associated with the land before undertaking development on the land. And further that Kāinga Ora must offer the land back under the Public Works Act 1981 to proceed with development in full partnership.

Rights of first refusal

19. We note that this bill sets out a new approach to rights of first refusal (RFR) to support Māori aspirations in urban development and enable participation in development opportunities. We support the requirement that Kāinga Ora engages with the RFR holder in the first instance and offers the opportunity to undertake a development of the land that is consistent with the RFR holder's aspirations.

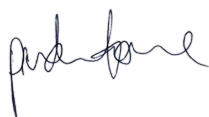
20. We also support the provision within this Bill that if the RFR holder does not agree to undertake the proposed development the RFR will continue to apply. However, we raise concerns around equity where RFR holders might not have the capacity to purchase land of cultural significance (for example urupa, archaeological sites, historical sites) gained by compulsory acquisition. We point to the case of Ihumātao which highlights the challenges to mana whenua and enormous costs and disruption involved in buying back former Māori land within city centres.

Summary

21. The Ministers for Kāinga Ora have enjoined the organisation to set the standard of urban development for the rest of New Zealand. In the Bill's explanatory note it is acknowledged that our urban developments are not the best they could be and are not meeting the needs of all New Zealanders. The PHA believes that this Bill will empower Kāinga Ora to break the mould and create urban development projects with the potential to lead the way in improving the quality of housing, creating inclusive sustainable communities and reducing urban-related carbon emissions at the same time.

We are happy to provide any clarification on matters covered in our submission.

Yours sincerely,



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