

14 February 2020

Committee Secretariat  
Environment Select Committee  
Parliament Buildings  
Wellington  
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## Urban Development Bill

### 1. Recommendations

1.1 Property Council New Zealand recommends the following:

#### *Part 2: Specified development projects (“SDPs”)*

- SDPs should only be set up where (re)development projects are too large, too complex and/or risky for the private sector to solely undertake.
- Make clearer that any organisation (whether it is iwi, councils or developers) can propose a project area before Kāinga Ora carries out an initial assessment.
- Developers are consulted during the initial assessment stage to ensure industry buy-in and input is considered.
- That the initial assessment should have a legislatively required process and timeframe behind it so we can ensure these discussions happen quickly and efficiently.
- A collaborative approach is undertaken to ensure Kāinga Ora realises the aspirations of the local/regional spatial plan when preparing a development plan.
- Amend *clause 70 (1)* to give Kāinga Ora the discretion on who it should consult with by replacing the word “must” with “may, at its discretion”.

#### *Part 3: Effect of specified development projects*

- Operational independence between Kāinga Ora’s development and consenting divisions.
- Governance arrangements to include a mechanism that enables Kāinga Ora to collaborate with local authorities on resource consenting to ensure they can benefit from innovations and improved processes.
- Kāinga Ora partners with the private sector to build and finance infrastructure.
- Align the Urban Development Bill with the Infrastructure Funding and Financing Bill so that Kāinga Ora can set up special purpose vehicles (“SPV”) alongside SDPs to enable the financing and delivery of infrastructure within the project area.

#### *Part 4: Funding of specified development projects*

- Ensure that a causal nexus approach is maintained with development contributions, and to achieve synchronisation with the Local Government Act 2002.

*Part 5: General land acquisition powers*

- Compulsory acquisition is only used as a last resort. We would prefer partnership over acquisition of land.

*Part 6: Powers of entry, governance and delegation*

- Amend *clause 282* of the Bill to include the private sector as part of the governance partnership process.
- Amend *clause 283* to include clear provisions outlining the breadth and mix of skills required for the project governance body that would be relevant to the work of the SDP.
- No political appointments are made to the governance body of SDP. This ensures SDP focus on delivery rather than political objectives.

## **2. Introduction**

- 2.1 Property Council’s purpose is “Together, shaping cities where communities thrive”. We believe in the creation and retention of well-designed, functional and sustainable built environments which contribute to New Zealand’s overall prosperity. We support legislation that provides a framework to enhance economic growth, development, liveability and growing communities.
- 2.2 Property is currently New Zealand’s largest industry with a direct contribution to GDP of \$29.8 billion (13 per cent). The property sector is a foundation of New Zealand’s economy and caters for growth by developing, building and owning all types of property.
- 2.3 Property Council is the leading not-for-profit advocate for New Zealand’s largest industry - property. Connecting people from throughout the country and across all property disciplines is what makes our organisation unique. We connect over 10,000 property professionals, championing the interests of over 560 member companies who have a collective \$50 billion investment in New Zealand property. Our membership is broad and includes companies that undertake large-scale residential and commercial development projects, including large commercial buildings, industrial parks and retail precincts where people live, work, shop and play across New Zealand.

## **3. Overview**

- 3.1 We would like to commend the Government on proposing the introduction of the Urban Development Bill (“the Bill) to give Kāinga Ora the necessary powers to undertake major urban development projects throughout New Zealand.
- 3.2 The Bill provides tools to help alleviate some of the many issues (i.e. consenting, risk of large-scale development) that have led to housing affordability issues in New Zealand. However, it does not solve the wider issues with the RMA process, district plan requirements, infrastructure funding deficit and insufficient fiscal incentives for local government.
- 3.3 We have long advocated for the creation of an urban development authority. We support government involvement in the establishment of urban development projects as these cannot exist in isolation and must integrate well within the wider community. Government needs to be involved in infrastructure-related decision-making because it is a critical enabler of developments and thriving cities and communities. However, the Government cannot do it all,



and needs to partner with the private sector. For example, Kāinga Ora lacks the expertise to develop office, retail and industrial space which will be important in providing the necessary business and jobs for residents in these new communities. We therefore recommend that Kāinga Ora partners and collaborates with the private sector when establishing these SDPs.

- 3.4 In order to achieve that, the Bill needs to ensure the SDPs are fit-for-purpose and flexible, operate with commercial discipline, complement the private sector (and not directly compete with it), are well governed with in-built governance arrangements and are future-proofed.
- 3.5 The Bill should not become another stop-gap, short-term measure to facilitate urban development by bypassing the Resource Management Act 1991 (RMA). The legislation must integrate well with any future planning system. In order to achieve this, the future resource management system should look to not only resolve current issues but also incorporate the Bill where possible. This would better ensure we have cross-system approach, rather than piecemeal legislation.

#### **4. Part 2: Specified Development Projects**

##### *Subpart 1—How specified development projects are established*

- 4.1 Property Council supports the establishment of SDPs. We are encouraged by the proposals contained in the legislation however, we feel it could be strengthened further.
- 4.2 SDPs should only be set up where proposed (re)development projects are too large, too complex and/or too risky for the private sector to solely undertake. An SDP's scope should focus on large scale, master-planned, quality high density projects. We believe that to avoid competition between SDPs and the private sector, SDPs should focus on projects that are significant in size (e.g. a suburb) and complexity (e.g. a mix of residential typologies and commercial dwellings), and over an extended period (e.g. 10-20 years). These projects will require substantial co-ordination between central and local government agencies, infrastructure providers as well as the commercial and development skills of the private sector.
- 4.3 Property Council expects Kāinga Ora to deliver development projects through a collaborative approach with developers and believe that the Bill could be made clearer to ensure that any organisation (whether it is iwi, councils or developers) can propose a project area before Kāinga Ora carries out an initial assessment.
- 4.4 Our submission to the Ministry for the Environment on the National Policy Statement for Urban Development<sup>1</sup> supported removing the concept of 'sufficient' and replace with the words 'feasible and likely to be taken up', so long as the development sector is consulted by local government. We recommend that the principle in the National Policy Statement on Urban Development is also extended to this Bill, namely that developers are consulted on during the initial assessment stage to ensure industry buy-in and input on feasibility and likelihood of take up is considered.

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<sup>1</sup> Property Council New Zealand, Submission to Ministry for the Environment on the National Policy Statement on Urban Development, [https://www.propertynz.co.nz/sites/default/files/uploaded-content/field\\_f\\_content\\_file/190924-pcnz\\_submission\\_on\\_nps-ud-september19.pdf](https://www.propertynz.co.nz/sites/default/files/uploaded-content/field_f_content_file/190924-pcnz_submission_on_nps-ud-september19.pdf)



- 4.5 We note that the process to establish an SDP is lengthy and want assurances that every attempt will be made to streamline it. While we acknowledge that Kainga Ora should be required to consult and discuss the SDPs with key stakeholders in the initial planning and scoping phase, we believe it should only happen in a way that gives effect to the purpose of the Bill. We also suggest that the initial assessment should have a legislatively required process and timeframe behind it so we can ensure these discussions happen quickly and efficiently.

*Subpart 2: Preparation of development plans*

- 4.6 When preparing a development plan, Kāinga Ora must realise the aspirations of the local/regional spatial plan (where one may exist) and ensure urban planning is undertaken holistically in development project areas. A holistic approach ensures collaboration between central and local government occurs to best reflect and deliver the community's expectations and needs.
- 4.7 We feel the bill proposes an incredibly detailed consultative process when preparing the development plan and believe this is not necessary. If the process to get an SDP across the line is too hard, then organisations will not use the legislation and will proceed with existing planning and development pathways. The legislative requirements to consult with key stakeholders makes the process too complicated and defeats the purpose of the Bill. We believe that the IHP process is the best and cleanest option for stakeholders to make detailed submissions on the development plan. Furthermore, we suggest amending *clause 70 (1)* to give Kāinga Ora the discretion on who it should consult with by replacing the word "must" with "may, at its discretion".
- 4.8 Property Council supports the requirement that the development plan clearly outlines what powers and funding arrangements will be used when setting up an SDP. This will help to recognise that each development is unique and will allow for a bespoke approach. By having clear objectives from the start, it will hopefully enhance transparency and help to prevent regulatory overreach of powers where they are not needed. Having agreed powers and funding arrangements may also help fast-track projects.
- 4.9 In addition, we support the proposed inclusion of funding sources (development contributions and targeted rates) in the development plan to ensure transparency and clarity to all those affected. Transparency of funding sources will better ensure that double dipping to fund infrastructure and future resources does not occur, which is important for the overall feasibility of projects and the likelihood of its success.

**5. Part 3: Effect of specified development projects**

*Subpart 2: Resource consenting and designations for specified development projects*

- 5.1 In principle, we support the granting of resource consenting powers to Kāinga Ora. However, Property Council feels it is important to highlight that the current proposals relating to the granting of consenting powers could result in a lack of consistency across a region (i.e. transport and water infrastructure projects). By separating consenting powers for SDPs from local government it could run the risk of the SDPs operating in isolation and thus doing little to ensure a seamless integration with any future urban planning system.



- 5.2 Operationally we are also concerned with how Kāinga Ora manages its many roles as a master planner, developer and consenting authority. We believe there needs to be clear guidance to ensure Kāinga Ora manages this conflict of interest fairly, effectively and efficiently. We believe this could be achieved by having operational independence between its different divisions to alleviate these concerns.
- 5.3 We recommend governance arrangements include a mechanism to enable Kāinga Ora to collaborate with local authorities to ensure they can benefit from innovations and improved processes. We suggest that appropriate recommendations from a future review of consenting powers be incorporated into this Bill.

#### *Subpart 4: Infrastructure*

- 5.4 Property Council is encouraged by proposals on the provisions of infrastructure as it will help to speed up development and ensure there is coordination with other aspects of an SDP. However, we recommend Kāinga Ora partners with the private sector to help build and finance the relevant infrastructure. On completion, we agree that it should then be transferred to the relevant territorial authority or government agency to be operated and maintained.
- 5.5 We are also encouraged by the recently tabled Infrastructure Funding and Financing Bill but wonder why the powers to set up SPVs and levy for infrastructure are not afforded to Kāinga Ora. We recommend alignment is given to ensure that Kāinga Ora can set up SPVs alongside SDPs to enable the financing and delivery of infrastructure within the project area.

### **6. Part 4: Funding of specified development projects**

#### *Subpart 3: Development Contributions*

- 6.1 Allowing development contributions to be used for wider purposes (i.e. “alternative uses”) may result in additional costs to development contribution fees. Development contribution fees are often passed onto the eventual buyer, making housing more expensive at a time that the Government is trying to improve housing affordability and intergenerational inequity.
- 6.2 Property Council is concerned about the requirement under *clauses 228 and 229* that development contributions could be used for reserves or alternative uses. We believe it is important that a causal nexus approach is maintained with development contributions and to achieve synchronisation with the Local Government Act 2002, to ensure better integration with the future urban planning system.

### **7. Part 5: General land acquisition powers**

#### *Subpart 2: Transfer and acquisition of land*

- 7.1 Property Council holds some reservations around the land acquisition powers. We are encouraged that legislation is consistent with the sections relating to compulsory acquisition in the Public Works Act 1981. While we support the need for land assembly where there are multiple landowners who are unwilling to sell, we would see compulsory acquisition as a last resort. For example, where a developer holds a section of land within in the project area, we would prefer that Kāinga Ora partnered with the developer rather acquiring the land.

*Subpart 3: Transfer of land to developer*

- 7.2 We support the ability for Kainga Ora to transfer ownership of land acquired to developers as this will allow developers to access the necessary financing to proceed with any development. A good example of this model has been seen at Hobsonville where the HLC worked with many private developers to build a mix of different residential, commercial and retail properties.

**8. Part 6: Powers of entry, governance and delegation**

*Subpart 2—Project governance*

- 8.1 An important part of the establishment of any SDP is good governance. In most instances, when considering the governance arrangements, Kāinga Ora should collaborate and build effective partnerships with the private sector. It is concerning that the Bill, *clause 282*, does not mention the private sector. We recommend the Bill is amended to include the private sector as part of the governance process.

- 8.2 In *clause 283*, we suggest further work is done to contain clear provisions within the bill outlining the breadth and mix of skills required for the project governance body that would be relevant to the work of the SDP. For most SDPs we believe that the below skills should be considered when appointing members to any governance body:

- commercial and residential development
- development financing
- infrastructure planning and/or delivery, in particular roading and three waters
- urban planning
- urban economics
- local knowledge and expertise
- community and business engagement and consultation
- legal expertise (property, planning and local government).

- 8.3 Property Council also recommends that any SDP is structured so that it can undertake activities independently of central government and territorial authorities and avoid the risk of political interference. We recommend that no political appointments are made to the governance body and that councillors are excluded. This would help ensure that SDP focuses on delivering the project with commercial discipline rather than political objectives.

**9. Conclusion**

- 9.1 Property Council is generally supportive of the Urban Development Bill.
- 9.2 We are concerned that the Bill fails to mention any collaboration and partnership with the private sector when establishing an SDP. We feel developers should be consulted during the initial assessment stage to ensure industry buy-in and input is considered. We also recommend that the private sector is represented on any governance body and that the Bill makes clear that political appointments are not appropriate.
- 9.3 On compulsory land acquisition powers, we believe that they should only be used as a last resort. Kāinga Ora should be encouraged to work with landowners to ensure the best outcomes for any SDP.



- 9.4 While we accept that the Bill does not solve the wider issues the property sector is facing, we feel it is a step in the right direction and will hopefully speed up much needed urban developments in the high growth cities throughout New Zealand.
- 9.5 Property Council would like to thank the Environment Select Committee for the opportunity to provide feedback on the Urban Development Bill. We also wish to be heard in support of our submission.
- 9.6 Any further queries do not hesitate to contact James Kennelly, Head of Advocacy, email: [james@propertynz.co.nz](mailto:james@propertynz.co.nz) or cell: 021 779 312.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Leonie Freeman', with a long horizontal flourish extending to the right.

Leonie Freeman  
Chief Executive