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Kāinga Ora -Homes and Communities Bill

Local Government New Zealand's submission to the Environment
Committee

July 2019

We are. LGNZ.

Local Government New Zealand (LGNZ) is the national organisation of local authorities in New Zealand. All 78 councils are members. We represent the national interests of councils and lead best practice in the local government sector. LGNZ provides advocacy and policy services, business support, advice and training to our members to assist them to build successful communities throughout New Zealand. Our purpose is to deliver our sector's Vision: "Local democracy powering community and national success."

This submission was endorsed under delegated authority by Mayor Dave Cull, President, Local Government New Zealand.

Introduction

Thank you for the opportunity to submit on the draft Kāinga Ora – Homes and Communities Bill ("Bill"). Our comments begin with a focus on the explanatory note, and then on specific sections of Parts 1 and 2.

In summary, LGNZ generally supports the Bill and its provisions, though there are some details that require greater clarification and definition. It should also be noted that LGNZ reviewed this Bill in tandem with the Regulatory Impact Statement (RIS) completed November 2018, which has prompted additional understanding for the Bill, as well as review of principles and models by which the Bill - and the planned succeeding Bill - will be implemented.

Summary

LGNZ has several points it believes will help shape the Bill and its intended outcomes. They include:

1. The Bill will create an urban development authority (UDA), and should explicit about this objective, as it is more than a "leader and co-ordinator" as is noted.
2. It is not fully clear, reviewing the RIS and the Bill what powers the UDA will hold. For example, the RIS notes that it is not recommended that the UDA hold building consent authority, yet there is no explicit statement that the new authority will not undertake this obligation. LGNZ believes further detail is needed in creating the "framework" for the UDA.
3. Timing and coordination of the GPS for HUD with the GPS on land transport, and if possible, reporting for the Infrastructure Commission should be aligned. Further, it would be very helpful to councils in their long-term planning to create one "umbrella" document where national data collected by a commission underpins Government's policy position on housing and urban development and its position on land transport.
4. Definition to terms, such as "perspectives" and "good quality" is needed. Further, it may be appropriate to narrow the Bill's focus, particularly in areas tangent to the provision of housing and urban development (eg access to jobs), as variables such as economic conditions develop or evolve beyond the control of a UDA.
5. The Bill notes partners, and is explicit with some (eg Māori), but does not mention ownership/partnership with territorial authorities and regional councils. Provided powers a UDA will or will not hold, close coordination with local authorities will be critical toward achieving outcomes, and it is recommended greater clarity over roles and responsibilities of working with key partners is provided.

6. LGNZ understands the Government has a strong focus on mitigation. However, for future planning of new development, adapting to changing climate conditions (eg sea level rise) is of equal or more importance than that of mitigating impacts. This is particularly true in conditions where master planned communities may provide both mitigation and adaptation measures through site placement and effective design.

General Comment

Explanatory Note

LGNZ generally agrees with the general policy statement with note to the following:

Key Roles – it's more than a leader and co-ordinator

LGNZ notes and agrees with the key roles of Kāinga Ora – Homes and Communities; to be a public housing landlord and leading and co-ordinating urban development projects. However, we note that through the RIS and in Subpart 3 that functions include “to initiate and undertake any urban development...” which broadly could include housing of all kinds in either green or brownfield areas and may include other development activities including commercial and industrial. Hence, the summary of “co-ordinating urban development projects” is a misnomer. What is proposed is an urban development agency (UDA). This new agency will be a land developer with significant power to acquire and re-zone land, fund or co-fund investments and coordinate construction.

It should be noted in review of the RIS that initial analysis of these powers and implementation of development appears overly simplistic in its approach. It cannot be over emphasized that enactment of land planning and development activity is an exceedingly difficult and specific practice with considerable area for waste and inefficiency and seemingly insignificant details to someone not versed in the practice can have critical impact on outcomes. For example, review and implementation of unsuitable design guidelines can add superfluous, unnecessary cost to buildings and homes.

Government Policy Statement – ensure it aligns with council LTPs

LGNZ agrees that a GPS for housing and urban development is a sensible idea for overall direction and priorities for housing and urban development. We would like to highlight that an on-going issue with the GPS on land transport that it does not align well with council LTP planning (or the included 30-year infrastructure planning). If councils are to coordinate with a UDA, and it is intended to absorb developed land into its operations, maintenance and renewal planning, ensuring the timing of the GPS aligns with LTPs is critical to ensure council fiduciary responsibilities are kept and manageable outcomes are achieved.

Further, LGNZ recommends that a concise statement of purpose be created that meets the outlined objectives (eg overall direction and priorities for housing and urban development).

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

LGNZ has comment and/or recommendation to the following portions of Part 1.

10 Membership of board of Kāinga Ora – Homes and Communities. Definition needed.

LGNZ notes that Ministers match appoint members to the board who, collectively, have knowledge, experience and capability in “perspectives” of Māori, public housing tenants, developers and local

government. It is unclear what “perspectives” means. LGNZ also believes that greater specificity is needed toward what background – collectively – this board should bring to the agency.

Further, because local government will be intertwined with the actions of the UDA, a representative who has applicable and recent experience working for or elected to local government should be included.

12 Objective of Kāinga Ora – Homes and Communities. Define and narrow the focus.

LGNZ applauds central government’s efforts to address as many outcomes as feasible under Kāinga Ora . However, 1(a) states “provide people with good quality, affordable housing choices”. Recent passage of the Healthy Homes Standards provides good definition, for example, for rental accommodation. Similar examples exist for homes available for purchase. LGNZ recommends creating definitions for clarity.

Further, 1(b) notes “support good access to jobs, amenities and services” is very broad and may be reliant on definition of what “good” looks like. To the point of managing expectations, it may be preferable not to include reference to jobs and amenities, as economic and social conditions evolve as a result of issues beyond those created by a UDA.

13 Function of Kainaga Ora Homes and Communities – define urban development powers

As was noted in the Explanatory Note, the *Urban development* section of this Bill requires greater clarity in “framing” roles and responsibilities for the planned UDA. While we understand that considerable flexibility is needed to align a UDA to meet varying requirements in different locations (eg one size will not fit all). However, there are key, inert characteristics of any significant land development practice that predicates due diligence, planning, improvements, construction and outcomes.

Specifically, the RIS highlights five categories of land planning and development; planning and consenting, land assembly (compulsory acquisition), land assembly (reserves), infrastructure, and funding and financing. While there may be merit in expanding powers for a UDA (in the event they are needed), within this legislation there should be clarity about what powers are intended for use as circumstances may have changed since the RIS was published. Further, it is unclear if Government agrees or disagrees with all or part of the proposed RIS recommendations.

Planning and consenting. LGNZ can provide comment on RIS, but for the purposes of the Bill, will note positions on noted recommendations. Regarding the planning and consenting, it disagrees with powers to override, add to or suspend provisions in local planning documents (eg district plans). These documents are created locally, have undergone public review, and should provide guidance for UDAs.

Toward building and consenting powers, though the RIS recommended not creating a building consents authority, local councils would welcome creation of a UDA specific building consenting authority (BCA) as long as all liability remains with that BCA and is not transferred to a council.

Land assembly (compulsory acquisition). LGNZ will support a UDA’s ability to assemble land through compulsory action, as long as there is a transparent and third party facilitated process of checks-and-balances in place to ensure property rights (individual or entity) are not eroded.

Land assembly (reserves). LGNZ supports the preservation of local reserves. Local reserves are created to assist in balancing community well-being and are often set aside in recognition of the specific or unique attributes of the land. Prostrating benefits of local communities and environment for national benefit is a contradiction in terms and undermines LGNZ’s key pillar to support and enhance locally driven benefits and outcomes.

Infrastructure powers. LGNZ agrees that, at a high level, a UDA should have infrastructure powers. Built into the framework of exercising these powers should be that local government must be coordinated with as a major partner (not stakeholder) in the creation and installation of infrastructure. It should be noted that that infrastructure provision has many “owners” but even more “stakeholders” from both Government, local government and private parties. The proposed Bill should recognize the different roles and required engagement (at a high level) to ensure objectives result in agreed outcomes. For example, basic design

planning (eg parking, park plans, and street design) should be coordinated with Police (who are not listed on Table 4 of the RIS).

Funding and financing. We agree that “growth should pay for itself” and generally support a UDA’s access to tools and forms of revenue that may not generally be available under other conditions. LGNZ believes that an explicit agreement should be created with affected territorial authorities to ensure that communication, decision-making and planned outcomes are clear to ensure they do not inherit any debt and/or associated legacy issues. Such an agreement would be particularly beneficial in brownfield areas where community engagement and design are complex tasks, and integration with existing infrastructure (eg storm water systems) will be complicated.

LGNZ notes in the recommendations of the RIS that the UDA require payment of development contributions and/or betterment under the LGA. We believe this measure should be enshrined in the legislation.

We also support Section 13 (h) and (i) to understand, support and enable the aspirations of communities and Māori in relation to urban development.

14 Operating principles – include adaptation

Under the section addressing *stewardship and sustainability*, it should be noted that though Government does have considerable focus on mitigation actions, local government is orienting its efforts toward adaptation. How sea level rise, drought, flooding and a host of other consequences of climate change will affect future communities must be planned for, which is an adaptive activity rather than one of mitigation.

It was also noted under the “collaboration and effective partnerships” that local councils are not explicitly noted as a stakeholder or partner. Not only will they be stakeholders, but perhaps partners in UDA activities and in implementation, particularly if UDAs do not, for example, take on the role of building consent authorities.

Part 2 - Other matters

Under the section entitled *Ministers must issue GPS on housing and urban development*, the deadline for issuing the GPS is 1 October 2020. It would be optimal if Government seized on the opportunity to align GPS planning across housing and land transport. The GPS on land transport must be completed by 1 July 2021 (nine months later). If both were completed at the same time, it would be of significant benefit in council long-term planning. Further, if both were completed in 2020, as councils are already beginning their planning for LTPs, national and local coordination would be better aligned.

As an aside, and to be completely aspirational, it would be optimal if planned Infrastructure Commission reporting also aligned with all GPS reporting, and was contained in one “umbrella” document.

Conclusion

LGNZ generally supports the strategic priorities and themes of the Kāinga Ora – Homes and Communities Bill, but does have some reservation over key issues including definitions, stakeholder and partner roles and responsibilities and proposed alignment with Government and local government statutory policy and reporting.

LGNZ appreciates the opportunity to comment.