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Committee Secretariat
Environment Committee
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Wellington

en@parliament.govt.nz

Community Housing Aotearoa submission on the Urban Development Bill

1. Thirty years of a lack of investment in genuinely affordable housing has given our country homelessness and housing stress at an unprecedented scale. The Government has a real opportunity to turn this around with its Urban Development Bill. We agree there is need for this Bill, however in its current form we fear it will not achieve its stated aims.
2. Community Housing Aotearoa (CHA) is the peak body for the community housing sector that provides emergency, transitional, Housing First, social and affordable rentals, and progressive home ownership programmes throughout New Zealand. We thank you for the opportunity to provide comment on the Bill.
3. CHA represents the interests of our 100+ organisational members on issues that impact their ability to fulfil a shared vision working toward All New Zealanders Well Housed. To reach this aim by 2030, along with a permanent reduction in child and family poverty, we work towards system-wide solutions that are broader than our sector.

Key Submission Points

4. CHA opposes the Urban Development Bill in its current form. We will fully support the Bill once Special Development Projects are required to develop affordable homes and ensure that the powers in the Bill do not displace current residents as discussed below.

The current drafting does not require the development of any housing when the extensive powers granted in the Bill are used. While housing is enabled, nothing in the Bill requires any housing developed to be affordable or social housing, or to meet the housing needs of key workers, of children, older people, or people living with disabilities. Further, the Bill does not provide a robust, statutory mechanism to ensure that any affordable homes developed will be retained so that mixed-tenure housing and communities are achieved and maintained over time.

Our understanding of the Bill is that the Government could use the powers of urban development to build a casino on a waterfront in any of our cities and not include any housing, let alone affordable housing for the workforce such a development requires.

We think this is a fatal flaw, one that must be remedied as the Bill proceeds through Select Committee. The remedy is that the Bill must state that **affordable and social housing is required** in any development using the urban development powers. Failing to include a requirement to deliver genuinely affordable homes in the Urban Development Bill poses a serious risk for New Zealand's ability to recover from the housing crisis we are in.

The homes that are delivered in developments must meet local needs, as well as the needs of different social, cultural, income and demographic groups. The overall urban design, the homes and community facilities should also be required to meet social, cultural, economic and participatory needs of all residents including children, older people and people with disability.

5. We set out these concerns in our submissions to the recently adopted Kāinga Ora – Homes and Communities Act, submitting that it should ensure:
 - (i) A human rights-based approach guided by a clear rights-based housing strategy¹;
 - (ii) the provision of housing across the housing affordability continuum;
 - (iii) delivery through a diverse range of organisations including locally based iwi, hapu; Pacifica organisations; and Registered Community Housing Providers
 - (iv) decision-making involving communities, including specific place-based approaches by enabling local housing policies, strategies and documents;
 - (v) powers that enable affordable housing providers in the housing and urban system in New Zealand, not just Government's role in it.

6. We support the following submissions:
 - (i) Centre for Research, Evaluation and Social Assessment (CRESA), in particular for their detailed explanation of the serious and profound deficiencies of the draft Bill, as well as their proposed remedy;
 - (ii) Accessible Properties Ltd., for their description of how the modified Special Development Project process can work when led by communities with their local authority support.
 - (iii) Those of Community Housing Providers, Māori housing providers, and supportive service providers expressing how the bill will impact their work in their local communities.

7. We also suggest that the Bill will be more likely to achieve the delivery of retained affordable housing with the following amendments:
 - (i) Provide a robust definition of 'affordable housing'

¹ As guided by A/HRC/37/53 - Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context (Jan 2018)

- (ii) include registered Community Housing Providers as both a key stakeholder and delivery agent
- (iii) add a third option for project selection – when put forward by local government, with community-led support
- (iv) create a more streamlined Special Development Project process (e.g., SDP-lite) for these community-led projects
- (v) expand the Betterment provisions to enable capture of value uplift for affordable housing, by enabling tools like inclusionary zoning, in a community-led project.

About Us

8. Community Housing Providers (CHPs) are home for approximately 25,000 people nationally across 13,000 + dwellings. Our homes are often part of mixed-income, mixed tenure communities, and offer place-based solutions that support a community development approach. Our sector providers are some of the partners that government appears to seek for delivering the aims of the Bill. CHPs have exceeded our ‘public housing’ delivery targets, delivering 700 of the 1600 new public houses annually, above the 30% target set by the previous Housing Minister.
9. CHPs offer a robust, flexible, low-risk approach to the delivery of new social (public) and affordable housing supply – whether rental or progressive homeownership. We come from the community, we act for the community, and we remain in the community. We are well-regulated, and capture, retain and recycle capital into housing outcomes sustaining and enhancing the overall economic, social, environmental and cultural wellbeing of current and future generations.
10. CHA supports the work of two regional networks of community housing providers, and work closely with Housing First collectives and community of practice.
 - (i) The Auckland Community Housing Providers Network is comprised of 21 organisations delivering emergency, social, and affordable ownership options. Website: <http://www.achpn.net.nz>
 - (ii) The Te Waipounamu Community Housing Providers Network brings together over 20 community housing providers and their partners operating in the South Island. Its members’ primary activity is to provide community housing solutions for people in housing need.

Areas where the Bill needs more work:

11. There is a risk that achieving mixed, connected, affordable housing developments could be compromised if too much focus is given to other potential housing and urban development outcomes – for example the provision of infrastructure or commercial and industrial developments. This risk should be mitigated in Section 5-Principles of the Bill

to ensure the primary purpose of the urban development activities to be carried out include the provision of affordable housing. Further, the affordable housing developed should remain so, so that mixed-income housing and communities are maintained. The structure of Community Housing Providers inherently ensures the retention of affordability for the long term.

12. Partnership: For more comprehensive housing outcomes to be achieved, these will need to occur through locally driven partnerships and decision-making processes with Kāinga Ora – Homes and Communities. These are some of the clear learnings to date from Auckland residential developments in Tamaki and the Waimahia Inlet. To be given effect, the Bill’s objectives will need to ensure existing communities and their connections within them remain intact, i.e. the security of both people living there and of the community itself.
13. Risk of doing harm: If the powers in the Urban Development Bill are used for redevelopment that makes current residents insecure in their tenure, reduces the number of social houses, causes gentrification or financialisation that displaces existing communities, then the Bill will harm more people than it helps. We do not see adequate protections in the Bill, as currently drafted, to mitigate these very real concerns. A strong commitment to no net loss of existing affordable homes and minimising displacement needs to be added to the Bill.

These concerns are evident in the Porirua Promise, put forward by the Porirua Community seeking to ensure their rights are respected during the regeneration programme. Enshrining the items identified in the Promise as necessary for the genuine regeneration of the Porirua Community with legal status is an example of a rights-based approach that this Bill could incorporate to remedy this risk. Please refer to the submission by Wesley Community Action for further detail on The Porirua Promise.

14. Definitions: There are several ambiguous terms that need clarifying and defining, including:
 - (i) We have included the term ‘Registered Community Housing Provider’ (CHPs) in our suggested amendments, which is a reference to existing legislative provisions, that we believe should be made explicit in this Bill, by identifying CHPs as both a key stakeholder and delivery agent
 - (ii) Provide a robust definition of ‘affordable housing’ based on household income and housing rent or mortgage payments not exceeding 30% of household income.
15. The Bill correctly recognises the centrality of Māori interests in housing, with much research occurring in this area. We support further clarification and amendments that provide explicitly for Māori interests in housing, including those by iwi, Te Matapihi, the Independent Māori Statutory Board (IMSB), and others. The IMSB’s work on the Kāinga Strategic Action Plan explicitly calls for “a Māori housing provider of scale in Auckland” among its recommendations, and we would hope that our suggested amendments to the Bill would give effect to this regional plan.

16. Value uplift, Capture and Retention – for retained affordable housing:

The Betterment provisions of the Bill are a very useful and powerful tool that must be expanded to assist in ensuring housing affordability is achieved, and also retained. Further redrafting work on the Bill must achieve this. Urban re-development internationally recognises value uplift resulting from the public investment in roading, transit, open space and other amenities associated with projects. Betterment as used in the draft Bill completely misses this opportunity to ensure that the value captured also delivers and retains affordable housing. It is an easy fix to allow affordable housing as an output achieved through Betterment.

More broadly, the enabling provisions of the Bill should also ensure that any local authority-led project can enact Inclusionary Zoning² programmes without fear of legal challenge, so long as they are well designed in accordance with a set of standards. This would provide an additional tool to enable greater supply of affordable homes. It would assist the CHP sector and local government to deliver more mixed income, mixed tenure communities. It would provide a parallel delivery system for smaller and medium size, less complex developments that don't have the complexity of ones requiring UDA powers. We suggest that further work be done using the broader terminology of value capture, uplift, retention of affordable housing and recycling of value for current and future generations. It may require a consequential amendment to the Local Government Act if the existing Betterment language is the approach taken.

Recommended Amendments to the Bill

In addition to the general comments provided above, we have identified the following items of concern. For some we propose amendments to specific portions of the Bill, while we state concerns about others without providing drafting changes. These items are identified below by reference to the Part and Clause in the draft Bill:

Part 1

S5(1)(a) add a new (vi) housing affordable to a range of households with incomes at or below the area median;

S5(1)(a) add a new (vii) ensuring no net loss of existing affordable homes and minimising displacement of low-income residents. Where displacement is determined necessary, provide replacement homes of equal or better quality at no additional expense to the displaced households; and

S10(1)(a) need to define affordable housing;

(b) change to 'development and renewal of urban environments which includes either developing or enabling the development of housing'.

² 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.

Further additions will be required here or in Sections 28 and 29 to ensure the homes address the items in the last paragraph of Item 4 in this submission.

Part 2

S30 amend this section to permit a local authority initiated partnership to run a streamlined process for a SDP-lite. Please refer to the submission by Accessible Properties Ltd. for a fuller description of this concept.

Amend the subsequent Section titles and content to read 'Kāinga Ora or a Community Project' in relevant parts to give effect to a local authority initiated project.

S35(3) add a new (j) registered Community Housing Providers

S36 We are concerned that early engagement may not cover relevant and important information that is actually included later in the project plan. This ability to consider early engagement sufficient seems overly permissive.

S39(2) We are concerned that Kāinga Ora will be reluctant and biased to consider anything as other than a technical or minor change to the plan.

S43(2)(b) 10 days for a TLA to respond is not sufficient to have a council actually consider the notice. Minimum 30 days is recommended, especially since S44 requires the TLA to respond.

S95(2)(a) must be consistent with project plan and key objectives to approve the change.

Independent Hearings Panel and role of Kāinga Ora in relation to that:

S83(1) Kāinga Ora provides advice on IHP recommendations to the Minister, when Kāinga Ora is clearly biased and this advice needs to be independent.

Schedule 3

S7 – Kāinga Ora responsible for administrative support.

S7(2) Kāinga Ora determines the level of support provided at its sole discretion, which again seems to permit undue influence by Kāinga Ora over the activities of the 'Independent' Hearings Panel.

We also have general concerns about the significant consenting and ratings functions which Kāinga Ora will assume and whether it possesses the required capability and capacity to undertake these functions. We suggest it may be more efficient to provide an ability for Kāinga Ora to work directly with the relevant consenting and ratings authority to conduct these activities.

Part 4

Subpart 4 Provide additional clauses to enable betterment revenue to be used for affordable housing in addition to roading, as discussed above in Item 16.

Summary

17. CHPs by their very nature are uniquely positioned to deliver place-based flexible and context-specific housing solutions that directly address the local need.
18. In many parts of the world a mature not for profit Community Housing sector (not the private market and not the Government – let's call it the third sector) has now superseded the outcomes delivered and managed by Government. Our sector in New Zealand is growing but still remains very small relative to other developed economies where very substantial contributions, outputs and outcomes are consistently delivered. With the proposed changes, the Urban Development Bill can activate CHP capability and augment Government capacity to address these pressing matters of housing affordability and urban development.
19. The Urban Development Bill is yet another opportunity to address the massive housing affordability gap that is damaging many communities across the country. The Intermediate Market, those +/- 200,000 working households across New Zealand who cannot afford to rent or buy a home at approximately 30% of their total combined gross household income, have very few choices or affordable housing options.
20. The Urban Development Bill can be part of the housing system to change this, but only if it requires every development that uses these powers to deliver retained, affordable housing as a primary activity in the development. The last 30 years are the proof. Make the hard decisions now that will foster households to change their lives for the better through taking more control of their homes. Having a stake in their home. Having a place to call home. Kāinga. Turangawaewae. Kāinga Ora.

CHA looks forward to working with Government in achieving the aims set in the *Urban Development Bill*. We wish to speak to the submission, and we thank you for the opportunity to comment.

Kind regards,



Scott Figenshow

Chief Executive

director@communityhousing.org.nz

021 061 9664