

## KĀINGA ORA-HOMES AND COMMUNITIES BILL: The Kiwi-inc Urban Development Authority

A discussion document and issues paper, June 2019

- Submissions on the bill currently open
  - Relevant Summit 2019 intel
  - Kāinga Ora Bill and
    - partnership
    - the ZERO social housing wait-list
  - Community providers in the mix, and creating thriving master-planned communities
- 

### Introduction:

The Kāinga Ora-Homes and Communities Bill is currently [open for public submissions](#).

The [Kāinga Strategic Action Plan](#) makes a commitment to considering the kaupapa of kāinga through the perspectives of Te Tiriti and kāinga. It directly raises questions of housing outcomes as a Treaty issue, equity and Māori access to housing, whānau wellbeing, and systemic and operational issues, barriers and responses.

The plan sets out six [Key Targeted Directions](#). Drawn from the dual lens, the directions broaden and set the plan's scope creating touch points with a systemic approach to homelessness, sector expertise development, and with the community housing sector, Auckland Council and Panuku.

In the following table the six Key Targeted Directions are set out to highlight how important this bill is to improving housing outcomes for Māori in Tāmaki Makaurau. The sections following the table discuss the bill and identify some issues, including:

- What we heard about plans for the UDA at the Auckland Māori Housing Summit in May
  - How the Kāinga intersects with the Kāinga Ora Bill and its provisions
  - The scope and impact of the Kāinga Ora Bill
  - The right to housing and its place in the bill
- 

### Kāinga Ora-Homes and Communities Bill – public submissions open

**11 July - Kāinga Ora-Homes and Communities Bill submissions close.** Link [here](#) for details.

The Kāinga Ora-Homes and Communities Bill is currently open for public submissions. At the link above you can find the bill, government commentary about the bill and the explanatory note [attached to the bill itself]. Also, as submissions come in they will be made public on that site after processing, so we can understand the issues others are raising.

Submissions are considered by the designated Select Committee who may invite submitters to present in person. Submissions in person will be limited to an explanation of matters raised in the written submission itself.

**Table: Kāinga plan Key Targeted Directions & intersections with the Kāinga Ora Bill**

Kāinga plan: Key Targeted Directions	Kāinga Ora Bill: relevance and issues
<p>1. Reflecting Te Tiriti and expressing partnership with ngā iwi and hapū and with Māori – Structures, systems, policies and outcomes that reflect and express Te Tiriti</p>	<p>The Kāinga Ora UDA entity will be a major decision-making hub for govt. <b>How will decision making reflect Treaty partnership, and ensure Māori outcomes?</b></p> <p>The entity will have Treaty compliance obligations set out in the bill. <b>How will that compare to other legislative provisions?</b></p> <p>The Kāinga Ora entity will be governed by a Board. <b>Who will be appointed and how will appointments ensure the Treaty is upheld?</b></p>
<p>2. Whānau focused strategies, navigators and brokers promoting kāinga outcomes – Services to support whānau, navigate systems and process, and access resources in accordance with kāinga</p>	<p>The Kāinga Ora UDA entity will be the government’s housing developer and social landlord. <b>How will the entity balance expenditure on development against expenditure on whānau outcomes (like sustained tenancies), and what levers will the government or the public have to influence that balance?</b></p> <p>The entity will be subject to HNZ’s new <a href="#">social objectives</a>. The Kāinga plan is reasonably aligned with those objectives – <b>how will they mesh with the Kāinga Ora development obligations?</b></p>
<p>3. End homelessness as a critical kāinga outcome – Ending inequity in inadequate housing outcomes and Māori over-representation in homelessness, based on a Te Tiriti o Waitangi and human rights based approach to strategy and related approaches, and reflecting the principle of <i>kāinga</i></p>	<p>The Kāinga plan highlights the <a href="#">human right to housing</a> as a baseline government obligation. At The Shift Aotearoa it was clear that for government legislative and policy docs to act as a lever toward achieving that target, it must be included as a clear statement of intention and an obligation. <b>How does the bill express New Zealand’s human right to adequate housing obligation, and how is Kāinga Ora obliged to meet that obligation on behalf of the government? How will the bill support us to end homelessness and achieve a zero social housing wait-list?</b></p>
<p>4. Skilled professionals with expertise in facilitating and achieving housing outcomes for Māori – Supporting iwi and whānau and others through professional standards and a training curriculum relating to housing and housing outcomes for Māori</p>	<p>The Kāinga Ora UDA entity will encompass much of what we now see as government touch points in housing: HNZ, HLC, Min Housing and Urban Development. This is a large scale institutional aggregation of services with depth and reach from cabinet and Ministers, to communities and whānau. <b>How will this new scale be leveraged to support the professional development of experts in housing outcomes for Māori?</b></p>
<p>5. Tailored housing and finance products meeting the needs of Māori whānau – Shared equity, progressive ownership models resourced and fit for purpose for Māori</p>	<ul style="list-style-type: none"> <li>• As the new hub of government housing activity, partnering with entities outside of government will be a core part of Kāinga Ora’s role.</li> <li>• The Ministry is developing what it calls a ‘place-based’ approach to supporting the best response in local urban spaces and communities.</li> <li>• The Kāinga plan supports moves to evolve a Māori community housing provider of scale, as a scale means to support housing outcomes for Māori. Amidst the sheer scale of development ahead in Auckland we must find ways to support and significantly grow the community housing sector and the outcomes they provide in Auckland communities</li> </ul> <p><b>How will Kāinga Ora approach partnership with development ready community organisations including through UDA developments directly? What tools will be put in place to make the proposition of a Māori housing provider of scale in Auckland a viable proposition, and a reality?</b></p>
<p>6. More Auckland Council land and Crown land for kāinga opportunities – Utilised for quality and accessible affordable housing in which whānau experiences of kāinga can be promoted</p>	<p>The Kāinga Ora UDA entity will be Auckland Council and Panuku’s new government side development partner. The Kāinga Ora Bill is one of the ways in which the government is asserting a firmer leadership role on housing vis local authorities – this interface is one of the core relationships and institutional dynamics shaken up by a UDA. <b>How will Kāinga Ora optimise Auckland Council’s contribution to housing, especially from a Māori perspective, through a kāinga lens?</b></p>

## The Kāinga Ora-Homes and Communities Bill – what we heard at the Auckland Māori Housing Summit 2019

Hon. Phil Twyford, Minister of Housing and Urban Development, attended Summit 19 and discussed on-going government planning and execution of its housing programme, and generously responded to 'Q + A' from the audience.

This section draws on that material to illustrate and reflect on the Minister's plans for the Urban Development Authority (as it was referred to prior to the current bill being introduced to parliament - since then 'Kāinga Ora-Homes and Communities' has been used in accordance with the bill).

The Ministry of Housing and Urban Development website explains the Authority in this way:

*"The Housing and Urban Development Authority ... will lead the Government's large-scale urban development projects as well as being a world class state housing landlord. It will have cut-through powers to build quality state and affordable homes **and create thriving master-planned communities.**"*

At the Auckland Māori Housing Summit (May 14) Minister Twyford made the following comments:

*"**We have to find solutions that are enduring and sustainable.** No one knows better than Māori that enduring solutions have to be worked through carefully and patiently in partnership."*

*"[The new authority – Kāinga Ora-Homes and Communities] is the Government's delivery agency for housing and urban development. **It will be the organisation that partners with others, that acquires land, that facilitates particularly large-scale new developments and Māori will be vital partners ... because Māori fundamentally understand that a house is more than bricks and mortar.**"*

*"Many Iwi Māori in the post-settlement area have land and assets, are capable entrepreneurs and are looking for opportunities, are looking for partnerships to deliver the homes that we need at size and at scale in our urban areas. In its legislative mandate, **the Authority will have a specific requirement and aspiration to support Māori ambitions in housing and urban development** and as development opportunities come up, the new organisation will be looking for opportunities to involve Māori in the planning and implementation of urban development projects..."*

*"[W]e will ensure that the Authority is structured so that Māori can continue to participate ... in local place-making and urban development. **To protect Māori rights and interests the Authority will not be able to ask the Crown to use the Public Works Act to compulsorily acquire Māori land, land returned under Treaty settlements and land significant to Māori...**"*

*"The KiwiBuild land for housing programme where we re-purpose Government land or purchase private land and make it available to developers, **recognises the importance of iwi partnerships in delivering this programme** and currently has 11 agreements in partnership with iwi that have the potential to result in more than 2,000 affordable homes being delivered."*

### Commentary

Thematically, these statements drawn from the Ministers speech recognise partnership with Māori as a cornerstone in the success of Kāinga Ora-Homes and Communities, which the Minister says is the organisation that will partner with others on behalf of the government.

Minister Twyford also made the following statement at the summit:

*“We know that Māori are five times more likely to be homeless than other New Zealanders and that is unacceptable to our Government.”*

Kāinga Ora-Homes and Communities will be responsible for building state social housing (also referred to as ‘public housing’). The Kāinga plan was developed with some key baseline expectations in mind, including that the government activates its development capacity and capability to the fullest extent with a view to achieving a **ZERO social housing wait-list**. (Related Kāinga plan issues paper [here](#)).

**Unless that is the target, it won’t be achieved. Without it as the target we risk remaining apathetic about the wellbeing of those on the wait-list now and in the future, including those living in inadequate housing and experiencing rough sleeping.**

As with KiwiBuild, the road ahead of Kāinga Ora-Homes and Communities is probably not straight forward but in principle the Kāinga plan recognises the importance of the scale the UDA will bring within a centrally controlled entity, which will create efficiency and probably make engagement easier. The statements made by the government on this kaupapa over the last 18 months have been consistent and the passage of the legislation represents the tying up of a complex *political* process.

What lies ahead is the *operational* process of putting the entity and the legislation into action. It is important to participate in the legislative development process, but as the Kāinga plan is about improving *outcomes* for Māori, it is critical to keep in mind the long-game of influencing the manner in which the legislation is **activated**.

**Community housing providers, like iwi, must be in the mix with Kāinga Ora.** Ad hoc small scale opportunities to partner with Crown agencies on Crown land are far less than ideal in growing the sector to deliver the outcomes it has the potential to deliver.

The sector’s expertise lies in the empowerment of whānau through in depth support toward home ownership or other forms of stable tenure, and the sector has a strong track record working with and for Māori whānau and substantively optimising limited and ‘on-again-off-again’ Crown investment in the sector. Community housing providers are also a source of real expertise in community building, although they might refer to it as *experience*, rather than expertise...

**Creating thriving master-planned communities** is another theme running through housing.

This could be the **most critical standard for Māori and communities to focus on in terms of holding the government to account** and monitoring the outputs of entities like HLC and HNZ today, and Kāinga Ora-Homes and Communities in the future.

As has been mentioned ‘community building’ is a very high profile idea, behind which lies very limited technical specification and or shared understanding of what it really requires and means, beyond and over and above the redevelopment of housing stock, and in addition to the development of housing and urban space.

Depending on the source, ‘regeneration’ efforts in Tāmaki/Glenn Innes have been fair to middling, or middling to poor in regard to ‘building community’. There has been some

discomfort for the community in Mangere where HLC is progressing major redevelopment plans. In the Addison development in south Auckland a certain community cohesion has emerged in response to shared frustration at certain characteristics of the urban development form, and the decision not to insert a train station adjacent to the development, changing a planned 'Transit-Oriented Development' into a 'Car-Oriented Development' in which, physically, a multitude of cars were not planned for.

Across Auckland, the experience of communities targeted by public sector regeneration programmes has involved displacement and uncertainty alongside any support and development as a community. It's critical that we do collectively create *thriving master-planned communities*, but the *how* is unclear and therefore requires significant investment in exploration, collaboration, and visioning, alongside all urban development activity.

## Kāinga Strategic Action Plan and Māori outcomes – actions and directions regarding Kāinga Ora-Homes and Communities

**The Kāinga Strategic Action Plan** includes a range of actions intersecting with the Kāinga Ora-Homes and Communities UDA proposed structure and responsibilities.

Action 1 calls for Treaty-based performance indicators for Crown agency bosses, while action 3 specifically calls for the Kāinga Ora UDA to be co-governed in accordance with Treaty partnership and increasing numbers of successful co-governance arrangements nationally. This move would ensure Māori partnership in decision-making in accordance with the Treaty principle. Other actions in the plan create other links with this kaupapa.

The bill tables a new approach to setting out obligations to Māori and the Treaty, dispensing with the common section 4 statement of Treaty of Waitangi application.

Instead clause 4 in the bill records a series of other provisions throughout the bill which promote Māori interests including in regard to the Treaty of Waitangi. It also includes setting out a responsibility on the Kāinga Ora Board to ensure that the Kāinga Ora entity *has systems and processes in place to ensure*:

*“Kāinga Ora has the capability and capacity to uphold the Treaty of Waitangi and its principles.”*

This breaks with tradition regarding the way previous statutes have provided for Treaty compliance – such as section 4 of the Conservation Act used to full effect in the Supreme Court in *Ngai Tai ki Tāmaki Tribal Trust v Minister for Conservation* (2018):

*“This Act shall so be interpreted and administered as to give effect to the principles of the Treaty of Waitangi.”*

'Give effect to' is a powerful legal term. 'Ensure' - used in the Kāinga Ora-Homes and Communities Bill - is also strong, but the context is less direct.

The obligation proposed for the Kāinga Ora Board is to make sure the business has systems and processes, and capability and capacity to uphold the Treaty. What is unclear is whether anyone is responsible for 'ensuring' those *systems and processes*, and *capabilities and capacities* are active and 'switched-on'. Even more importantly for those interested in the

long-run in Kāinga Ora-Homes and Communities in fact upholding the Treaty of Waitangi and its principles is the question *who will we hold accountable if there is a failure?*

This bill seems to establish an internal system in which:

- a) the Kāinga Ora Board itself may not be responsible for upholding the Treaty of Waitangi (because its stated responsibility is to ensure there are systems and processes); and
- b) the specific location of future accountability remains opaque.

While most agree the Urban Development Authority is a necessary pathway to achieving the housing overhaul Auckland needs, the detail is important. The big picture continues to feature strong engagement with Māori, and substantive structural changes in the way government approaches and invests in housing which overall move toward simplification and efficiency. But this new approach however needs to be tested.

### Kāinga Ora-Homes and Communities – scope and impacts

**Kāinga Ora-Homes and Communities**, like other Urban Development Authorities elsewhere, will have significant implications and impacts for communities. Many will be positive, in better coordinated public sector activity to deliver homes at a scale that can only really be referred not as housing development, but *urban development*.

There is much talk about ‘community’ but the science of **community building and community development is very uncertain** (as touched on in the previous section), and the Crown (as in governments both past and present) would probably accept ‘mixed reviews’ of community development practice over the last few decades. The bringing-together and coordinating power of the Kāinga Ora entity probably sets a new benchmark and certainly a new level of expectation and aspiration, and communities need to be ready to engage and make sure Kāinga Ora *hears and knows* what communities want.

The powers of the entity will include partnering, purchasing, developing, but this entity will also be an operating landlord - the largest in the country. There are risks in combining the development and rental management/landlord functions in the one entity and this approach too requires consideration and testing.

This apparently minor point is important in regard to the human right to adequate housing, and where that right begins and ends. In the international law paradigm the Crown has a role in developing housing to *the extent that it has the means to do so*. This can at the same time serve to quell – rightly or wrongly - frustration about not *developing housing to meet demand* (the human right element of this is discussed further in the next section).

There is a risk the property management role – where the rubber hits the road and the agency comes face to face with whānau, and with the extent of need in communities and becomes an expert voice on that demand - boils down to managing existing available stock, and does not extend to advocating for the right amount of stock to meet demand.

It might be time we recognised a need for someone to fill that role in New Zealand.

The new Urban Development Authority will also have powers that cut across local government jurisdictions in regard to planning, consenting, and an underlying responsibility for urban space. For Māori this may be a mixed blessing. Many iwi enjoy far stronger relationships with government than with local councils, and in legal terms the Crown's obligations to iwi are far stronger than those of local authorities. So for the Kāinga Ora UDA to usurp some of the public powers of local authorities, and possibly cut across some activities and traditional objectives of local authorities, may place those powers in an arena where Māori have more, not less, influence.

The authority will have powers of compulsory acquisition to enable the aggregation of land parcels in strategic locations, which in turns enables it to build scale and intensify, and/or build to the aspirations of the community, as the case may be. The bill is pretty clear that Kāinga Ora UDA activity will not interfere with Māori interests in land and that Māori and Treaty settlement land will be protected from such acquisition. This should create traction for iwi probably in a positive sense, where iwi land holdings targeted for development will bring iwi more directly to the table in planning a development. It serves in simple terms to provide an additional bargaining chip for iwi: if the UDA wants iwi land it *must* – by legislation - be gained through negotiation, not compulsory acquisition.

### The right to adequate housing –The Shift Aotearoa conference and the expression of rights in the bill

The Kāinga plan was developed with some key baseline expectations in mind, including that the government activates its development capacity and capability to the fullest extent with a view to achieving a **ZERO social housing wait-list**. Unless that is the target, it won't be achieved. Without it as the target we risk remaining in an ambivalent state regarding the wellbeing of those on the wait-list now and in the future, including those living in inadequate housing and experiencing homelessness.

The human right to adequate housing is one New Zealand has made a commitment to. However over the years, similarly to other countries, the New Zealand government has acknowledged a failure to meet this obligations with the explanation that it has attempted to do so, to the extent possible given available resources.

This is code for managing the competing obligations and aspirations of government, and of the course the very real and relatively clear limit on a country's resources at any given time.

The United Nations recognises this as a kind of exemption from human rights obligations, as fundamentally it would be counter-productive to destroy a countries education or health system for example, by channeling more and more money into – for example – housing, in order to meet the human right.

In this regard, the human rights framework can be seen as a means to look into, review, and advocate for change to a countries overall spending priorities.

In New Zealand, there has been a strong recent movement to drive understanding of housing not just as a human right, but as perhaps the most fundamental building block of whānau wellbeing. It is now widely agreed that poor housing impacts on health and

education outcomes (for example), and an increased investment in housing compared to health or education therefore makes sense as it would theoretically reduce hospital visits and increase education stability and attendance, placing less cost pressure on those sectors.

Proving this link (better housing improves health) is relatively straight-forward, but understanding its actual 'value' – *how much* expenditure should change direction; how much more would have the required impact in housing, and to what extent would this be reflected in savings elsewhere - is difficult, in terms of both accounting and politics.

The Kāinga Strategic Action Plan calls for a national housing strategy with the human right to housing at its heart. The goal of this action is to both promote a national strategy illustrating and controlling links between an underlying constellation of operational policy, like KiwiBuild for example, and to create a new onus on government to meet the human right obligation, and make the funding shift.

At [The Shift Aotearoa](#) (Community Housing Aotearoa conference, June 2019) it was clear that in order for the human right to adequate housing to be put into action, it needs to be expressed explicitly in key government documents – legislation, cabinet papers, National Policy Statements, and the strategic intentions of Ministries [inter alia].

In the Kāinga Ora Bill there is some scope through interpretation to find space for the human right to adequate housing, but there is no explicit statement of the human right as a driver, an expectation, or a target.

Bills like the Kāinga Ora-Homes and Communities Bill represent fleeting and infrequent opportunities to express, embed, and give life to the Treaty and the human right to housing – not through speeches and website content, but through the specific set of binding and agenda setting documents government uses to get business done.

---

### What's next? A snap-shot of work ahead for the Kāinga project

- Finalising project priorities for July 1 to December 31 2019
- Drafting and finalising submission on the Kāinga Ora-Homes and Communities Bill
  - **[Submissions close 11 July]**
- Participating further in development of Ministry of Housing and Urban Development Māori outcomes work programme
- Work with Te Matapihi and Community Housing Aotearoa to build proposition for:
  - a 'systems approach' to housing
  - a Māori Housing Provider of scale in Auckland and
  - learning opportunities to grow expertise
- Further newsletters to be circulated soon on
  - Summit 19 – further info and intel (on-going reporting)
  - Auckland Council and Panuku – avenues and opportunities
  - Auckland's Climate Emergency