Submission to the Urban Development Bill

Auckland Council 14 February 2020

Auckland Council
Te Kaunihera o Tāmaki Makaurau

14 February 2020

Committee Secretariat
Environment Committee
Via online submission form

Auckland Council's submission on the Urban Development Bill

Please find attached Auckland Council's submission on the Urban Development Bill. This submission is in two main parts, the front section which provides high level feedback and a detailed table that addresses specific clauses.

This submission includes the input from Council Controlled Organisations (CCOs) Auckland Transport (AT), Watercare Services Limited (Watercare) and Panuku Development Auckland. It is acknowledged that AT and Watercare have made separate submissions. We request to be jointly heard by the Select Committee.

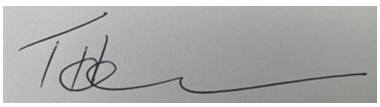
This submission is endorsed by the Chair and Deputy Chair of the Planning Committee, and a member of the Independent Māori Statutory Board with delegation on behalf of the Planning Committee. 13 local boards have provided submissions to the Urban Development Bill, and these are appended to the Council's submission.

Please contact Anna Jennings (anna.jennings@aucklandcouncil.govt.nz), Principal Advisor Urban Growth and Housing, if you have any queries regarding Auckland Council's submission.

Yours sincerely

Councillor Chris Darby
Chair of the Planning Committee

Councillor Josephine Bartley
Deputy Chair of the Planning Committee



Member Tau Henare
Member of the Independent Māori Statutory Board

Mihimihi

Ka mihi ake ai ki ngā maunga here kōrero,	*I greet the mountains, repository of all that has been said of this place,*
ki ngā pari whakarongo tai,	*there I greet the cliffs that have heard the ebb and flow of the tides of time,*
ki ngā awa tuku kiri o ōna manawhenua,	*and the rivers that cleansed the forebears of all who came those born of this land*
ōna mana ā-iwi taketake mai, tauiwi atu.	*and the newcomers among us all.*
Tāmaki – makau a te rau, murau a te tini, wenerau a te mano.	*Auckland – beloved of hundreds, famed among the multitude, envy of thousands.*
Kāhore tō rite i te ao.	*You are unique in the world.*

Auckland Council Submission on the Urban Development Bill

Submission to the Urban Development Bill Select Committee

Introduction

1. Auckland Council thanks the Government through the Select Committee for the opportunity to provide a submission on the Urban Development Bill.

2. This submission is endorsed by the Chair and Deputy Chair of the Planning Committee, and a member of the Independent Māori Statutory Board with delegation on behalf of the Governing Body. It includes the input from Council Controlled Organisations (CCOs) Auckland Transport, Watercare Services Limited and Panuku Development Auckland.

3. In accordance with Auckland Council's unique governance model our local boards have also provided their submissions. These are attached in Attachment A.

4. Building sustainable urban environments is a complex process. The Bill reflects that complexity and in doing so includes provisions that may lead to unintended consequences, duplication and confusion for developers and communities. Auckland Council has therefore spent considerable effort in providing what it hopes are practical suggestions on how the Bill can be improved so that the purpose of Kāinga Ora – Homes and Communities (Kāinga Ora) is achieved. Council's submission consists of suggested amendments to the bill, followed by high-level comments and more detailed commentary on these amendments.

Tāmaki Makaurau context

5. Council is a unitary authority and is the largest council in New Zealand in terms of population and it is also the most diverse. The Auckland region covers a wide range of land uses from dense urban to rural productive and conservation islands.

6. Council is currently the only council in New Zealand that is required to develop a spatial plan, which enables coherent and co-ordinated decision making and provides a basis for aligning council's implementation plans, regulatory plans, and funding programmes. This was first adopted in 2012 (The Auckland Plan 2012), with a significantly revised version being adopted in 2018 (The Auckland Plan 2050).

7. Auckland Council is also unique in having an Independent Māori Statutory Board (IMSB) in order to assist council to make decisions, perform functions, and exercise powers. The Schedule of Issues of Significance and The Māori Plan for Tāmaki Makaurau provide a framework for these to be considered. The IMSB has provided support and guidance on this submission.

8. The Auckland Plan 2050 identifies that to achieve the Auckland we want, we must address the three most important challenges of high population growth, ensuring prosperity is shared amongst all Aucklanders, and arresting and reversing environmental degradation. Auckland's

success is dependent on how well Auckland's prosperity is shared and in doing so avoiding gentrification that does not benefit those most in need.

9. Around 1.64 million people live in Auckland already. Over the next 30 years this could increase by another 720,000 people, potentially requiring about another 313,000 dwellings and 263,000 jobs. The rate and speed of Auckland's population growth puts pressure on our communities, our environment, our housing and infrastructure networks, including roads. It also means increasing demand for space, infrastructure and services necessary to support this level of growth.

10. Many Aucklanders are prosperous and have high living standards, yet there are significant levels of socio-economic deprivation, often in distinct geographic areas. Key drivers of this include unequal access to education and employment opportunities, along with high – and often unaffordable – housing costs.

11. Much of Auckland's appeal is based on the natural environment, but this is vulnerable to degradation from the impacts of human activities. Despite regulation and considerable effort, Auckland's environment continues to be affected by past decisions, Auckland's rapid growth and development, as well as emerging threats such as climate change.

12. In June 2019, Auckland Council formally declared a Climate Emergency, recognising the importance of and urgency required to address climate change for the benefit of current and future generations. As a C40 Innovator City and signatory to the New Zealand Climate Leaders Coalition, Auckland Council is also committed to doing its part in meeting the Paris Agreement ambitions of keeping global temperature rise to below 2°C, while pursuing efforts to limit the increase to 1.5°C. From July to September 2019, Auckland Council consulted on a region-wide climate action framework, Te Tāruke-ā-Tāwhiri. The framework takes an integrated approach, setting a path to rapidly reduce our emissions while preparing for the impacts of climate change. An updated digital plan, informed by consultation feedback, will be launched mid-2020.

13. This Bill comes at an important time for Auckland where there is a need to look to the future and ensure we can better provide places to work, live and play for generations of Aucklanders to come, while addressing the significant environmental decline and challenges we are experiencing.

14. In the Auckland Council context, mana whenua means the indigenous people (Māori) who have historic and territorial rights over the land. Forming about 15 per cent of Auckland's Māori population, it refers to Māori who whakapapa to (have genealogical links with) Tāmaki Makaurau iwi and hapū. Mana whenua interests are represented by 19 iwi (tribal) authorities in Tāmaki Makaurau, Auckland.

15. Auckland Council has a commitment to a treaty-based partnership with Māori. In practice, these commitments are delivered through working together to achieve better outcomes for Māori, lifting economic, social and cultural wellbeing and recognising the link between Māori and whenua through whakapapa, strengthening our effectiveness for Māori and optimising post-treaty settlement opportunities to benefit Māori and all Aucklanders.

16. Furthermore, Auckland Council engages with mana whenua as residents and ratepayers through our community engagement processes. Standard master service agreements (also known as mana whenua service contracts) have been agreed with 14 of the 19 mana whenua iwi authority groups.

Summary of submission points

17. Auckland Council has consistently supported, in principle, the concept of an Urban Development entity as one tool to enable more housing to be built in a manner that creates sustainable and thriving communities. That support has always been qualified by the need to understand the powers being provided to that entity, and how the entity may work with local government in using those powers.

18. The Urban Development Bill sets out to ensure that Kāinga Ora is required to undertake transparent processes in both the establishment of a Specified Development Project Area (SPDA) and in the production of a development plan for that project area. Auckland Council supports the intent of these processes and considers that they could be strengthened and improved by greater clarity of roles, by removal of duplication and potential for confusion, and ensuring decision making sits at the appropriate level.

19. Auckland Council also supports the principles for specified development powers and considers that these would benefit from the inclusion of reference to Kāinga Ora being required to demonstrate in its specified development projects exemplar examples of sustainable urban development and follow best practice urban design and urban planning principles.

20. Auckland Council supports the creation of a Development Plan for each SPDA that sets out the Kāinga Ora's ability to acquire land, construct and provide infrastructure and set development standards for density and urban development. The success of each specified development project will rely on the ability of Kāinga Ora to successfully undertake urban development in a manner which understands the complex interplays between development and infrastructure capacity and costs (both capital and operational), existing and future community needs, growth demands and climate change/natural environment protection. Critical to that understanding will be how Kāinga Ora works with local government and mana whenua.

21. Auckland Council considers that in order to achieve sustainable urban development, a partnership approach is required between central government, local government, and mana whenua to provide for local decision making, avoid unnecessary duplication and confusion for the community, applicants and developers. To support this partnership approach, several provisions in the Bill require a repositioning to elevate local government from being a 'key stakeholder' to a role where collaboration and solution focussed behaviours are paramount.

22. The powers that Kāinga Ora are provided should only be used where local government and Kāinga Ora agree that standard processes would not achieve the mutually accepted outcomes and in areas where the market is not delivering. This would avoid both unintended consequences and enable Kāinga Ora to focus its efforts and resources on development rather than on becoming a 'quasi' local authority. For example, this potential lack of focus is a real likelihood in the Bill's provision that Kāinga Ora becomes the mandatory resource consent Authority in a SDPA. Rather than taking on that local government role, provisions could be included in the Bill which require the existing Territorial Authority (TA) to consult with Kāinga Ora and have regard to the SDPA development plan in relevant resource consent applications. Such an approach is already happening in Auckland through the Auckland Housing Programme (a collaborative process between Kāinga Ora and the Auckland Council group).

23. The submission seeks to ensure alignment with the Auckland Plan 2050 to provide certainty to our communities, infrastructure providers and for funding and implementation in the long-term plan and to ensure that appropriate safeguards are put in place in relation to social and physical infrastructure networks.

24. Auckland Council requests the acknowledgement that Auckland Council has a different governance structure (a Governing Body; 21 Local Boards, five substantive Council CCOsand the IMSB), as established under the Local Government (Auckland Council) Act 2009, and to ensure ample time and opportunity is provided for input. Our CCOs that manage critical infrastructure including transport, water supply and wastewater, are also governed by their own board of directors and governance structures.

25. There is concern over the role of ministers making the final decisions, and the lack of guidance to help them, on several matters including what is deemed generally suitable for urban use in the establishment of a SPDA, and on the final development plan. Such decisions should be made based on evidence and in relation to the development plan, which has been through an Independent Hearings Panel process. It would be more appropriate for the Kāinga Ora Board to make the final decisions with suitable checks along the lines adopted by the Crown for the Auckland Unitary Plan.

26. Auckland Council supports those parts of the Bill that support Māori aspirations such as the protection of Māori land, First Right of Refusal and the involvement of Māori in the development of the Government Policy Statement (GPS). However, the Bill raises concerns for Iwi (recognised by local government) who are yet to reach Treaty Settlements and as such will not need to be recognised by Kāinga Ora.

27. Auckland Council supports the infrastructure financing and funding elements of the Bill. The legislation will support the provision of infrastructure to support housing and urban development.

28. However, the ability for Kāinga Ora to build new infrastructure and alter existing infrastructure in not only a SDPA but beyond its boundaries and potentially without regard to established engineering standards or network controls is of significant concern. It could have costly unintended health, safety and wider capacity issues for infrastructure provision across a district if the Bill is not revised to address these matters.

29. This Bill is the latest piece of legislation that impacts on urban growth and housing in addition to: Resource Management Act (RMA) reforms; proposed National Policy Statements on Urban Development, and Highly Productive Land; Essential Freshwater and Indigenous Biodiversity; Infrastructure Funding and Financing Bill; and the National Planning Standards. Auckland Council advocate strongly to Central Government that these changes all be aligned.

High level feedback

30. Council's submission on general issues of concern is presented below. This should be read in conjunction with the detailed clause by clause submissions, relief sought, and suggested amendments in the table in Attachment B.

Opportunity: Partnership model

31. There is a clear opportunity to provide for partnership and collaboration with Kāinga Ora. This would increase the capacity and capability of Kāinga Ora to achieve the Bill's urban development objectives and resolve some of the issues which are detailed below. Auckland Council advocates that partnership is needed with mana whenua and local government (which includes local boards) to underpin all stages of the processes outlined in the Bill.

32. The Bill sets out extensive powers for Kāinga Ora to expedite and integrate urban development. The success of this model on the ground will be dependent on Kāinga Ora's ability to work well with the local government, mana whenua and infrastructure providers who have extensive capabilities, local knowledge and responsibility relevant to a development. Accordingly, it is necessary for the Bill to support Kāinga Ora's powers to fast-track development with more opportunities for meaningful collaboration with local government and infrastructure providers. The Bill should include a mechanism for formal partnership.

33. A partnership approach is consistent with the explanatory note of the Bill which "*recognises the essential role of territorial authorities in realising transformational urban development and provides for their partnership with Kāinga Ora*." We consider that local government (including its infrastructure providers) and mana whenua must be identified as more than a key stakeholder and suggest that further steps are required to truly reflect a partnership approach. Where appropriate, this could mean working with existing local processes for procurement, strategy, asset management and environmental compliance.

34. Auckland Council (and its CCOs) has already established a strong partnership with Kāinga Ora and provides significant regulatory and non-regulatory support to the government programme. Auckland Council has worked closely with Homes Land Communities and Housing New Zealand for the last three years, establishing appropriate systems to support central government's housing programme that has yielded positive results to date with 2,429 new household units created over a 19-month time period.

35. There is a limited pool of specialist staff within the urban development sector. The duplication of local government functions will necessitate new staff. It is likely that these staff will come from existing local government, which will significantly diminish their ability to undertake their existing functions. In Auckland Council, this is already creating issues in parts of the organisation including building consents. A partnership model will provide the ability to share resources and put agreements in place to ensure the focus is on enabling good development across the entire region, not just within Kāinga Ora's SPDA.

Issue: Alignment with Local Government's Strategic Framework

36. The strategic, regional picture must be considered as part of planning for specific areas through SDPAs. In any district and region, how a community grows and develops and the impact that has on infrastructure networks forms a complex and interconnected system. The

networks may overlap and have different scales and focal points. No area exists in isolation from its wider context.

37. Every growth district or region in New Zealand has over the years developed a strategic framework with mana whenua, its communities, stakeholders, developers and government agencies. The frameworks include spatial plans, planning instruments (such as Regional Policy Statements, District Plans), Infrastructure Strategies and Network Plans, and Long Term Plans. All of these have been developed through legislative submission processes which have required significant input from communities, business, developers and mana whenua. These strategic frameworks provide for the obligations local government has under the Local Government Act and under the National Policy Statement Urban Development Capacity (NPS UDC).

38. In Auckland, the Auckland Plan 2050 provides this strategic picture – how Auckland will accommodate growth over the next 30 years. The Plan, required by legislation, acknowledges Auckland's physical context and the integrated nature of land use and infrastructure planning. It is based on a quality compact approach to accommodating growth. The Auckland Plan 2050 forms the basis for an on-going conversation about Auckland's priorities informed by its environmental, social, economic and cultural context. The Auckland Plan 2050 also provides a base for the Auckland Unitary Plan and other strategy and policy documents. The Auckland Plan also links land-use planning with infrastructure delivery and funding (through the Development Strategy and the Long Term Plan).

39. The Auckland Plan was shaped by 18,742 written and 5,865 in person submissions. Similarly, the Auckland Unitary Plan, which is a living document and can be revised as needed, was designed based on extensive community involvement. There were 21,000 pieces of written feedback on the draft and 13,000 submissions in the formal consultation period and an Independent Hearings Panel (IHP) process. Due to the significant level of local input that has gone into these, Kāinga Ora would need to have good reason not to align.

40. In light of the extensive process that local government must go through to develop its strategic frameworks (evidence based, public submission, subject to scrutiny from the Courts), it is concerning that the Bill does not require Kāinga Ora to give greater regard to the established strategic framework of the district and region within which it wishes to undertake a SDPA.

41. Clause 69 requires that in preparing a development plan, Kāinga Ora "must have regard to" documents including regional policy statement, regional plans and district plans. It is suggested that the legislation is broadened (from "have regard to") to require that Kāinga Ora recognises and provides for the long-term outcomes sought for regions through documents including spatial plans required by legislation (in the case of Auckland this would be the Auckland Plan required under Local Government Auckland Council Act (LGACA), Future Development Strategies (under the NPS UDC), as well as regional and local planning documents (under the RMA) and other documents mentioned in the Bill.

42. This would provide alignment with a strategic direction already agreed with local communities. It would also provide more certainty for infrastructure providers – both our CCOs and other providers such as Vector and Chorus –as to their on-going priorities, funding and implementation of projects and programmes already in process through long-term Plans.

43. In addition, the Bill does not appear to define or limit the scale of projects that Kāinga Ora may propose, with the land area for specified development project (SDP) not needing to be contiguous. The Bill needs to clarify that there will be limits to the extent of interventions so that the integrity of planning through local government is not undermined. Planning documents and a TA's long-term plan are developed using a strong evidence base and have been through extensive community consultation. They provide a level of certainty for developers and infrastructure providers, particularly during the transitional period.

Issue: Decision making process impact

44. Decisions made on urban development projects can have far reaching consequences for a district and region. The consequences can either be positive or negative for the wider community and environment depending on whether decisions made on the development were based on evidence and have been scrutinised carefully, or not. The local knowledge and evidence that usually sits within a TA is a critical input into that process.

45. Auckland Council is concerned that while the Bill sets out some useful guidance (in Clause 30) on the criteria for establishing a specified development project area, this guidance can be totally disregarded if the joint ministers "*consider an area is generally suitable for urban use*" (Clause 30(c)(i). This ability of the joint ministers to make a decision based on what they 'consider' is of significant concern rather than on the evidence.

46. Decisions about appropriate land for urbanisation are properly made in the participatory strategic planning processes of a region and district so that strategic issues of growth, infrastructure capacity and funding, staging, environmental, social, cultural and economic matters can be considered in an integrated way. Kāinga Ora should be operating in urban areas or on land identified as appropriate for future urban use through a statutory document such as regional policy statement implemented through a district plan. All growth councils are required under the NPS Urban Development Capacity 2016 to provide for feasible development capacity over and above projected demand in their RMA plans. Having the joint minister make a call on what land is "*generally suitable for urban use*" contradicts the outcomes being sought by those NPS provisions.

47. Auckland Council supports the provision in the Bill which requires Kāinga Ora to seek the views of the relevant TA over the establishment of a SDPA. However, Council considers that the relevant Regional Council should also be consulted as the SDPA could impact on regional outcomes and infrastructure provision.

48. Auckland Council is concerned that if the relevant TA indicates opposition to the establishment of a SDPA then the joint ministers can overturn that if they 'consider the project is in the national interest' (Clause 30(h)(ii). The Bill does not indicate how "*national interest*" will be determined in such a situation. If this aspect of the Bill is to remain then it is suggested that the "*national interest*" is defined and linked to the GPS on Housing and Urban Development.

49. However, as indicated previously Auckland Council considers that for Kāinga Ora to be successful in achieving its outcomes it must work in a collaborative partnership with local government and Māori. It would not be a good start to such a relationship if the ministers chose to override a TA's opposition that is based on sound evidence.

50. Auckland Council supports the use of an IHP to hear submissions on a proposed development plan for a SDPA, and to make recommendations on how that development plan may be improved. That process is very similar to the one used for the Auckland Unitary Plan (AUP) and advice can be given on the IHP process for the AUP.

51. However, once the IHP makes its recommendations then, unlike the AUP process where Auckland Council was tasked with making the final decisions on the recommendations of the IHP with a right of appeal if Council rejected a recommendation of the IHP, under the Bill it is the minister who makes those decisions with no ability to appeal except on a point of law.

52. Auckland Council considers that leaving the final decision on whether the recommendations of the IHP are accepted or not to the minister is risky and undermines the integrity of the process. The IHP will be resourced with highly skilled commissioners who will have read and listened to all the detail in the submissions and weighed that information up against the objectives of the SDPA. Any decision to accept or reject the IHP's recommendations are best made by the entity who will be responsible for delivering the development plan i.e. the Kāinga Ora Board. If the Board chooses to reject a recommendation of IHP then, just like the AUP process, recourse should be available to the submitters to the Environment Court. Leaving the final decisions in the hands of a minister, who has not been privy to the submission and hearing process, politicises the process unnecessarily.

Issue: Timeframes for consultation processes

53. Urban development within the New Zealand and Auckland context is complex. There are several factors to consider from infrastructure provision, to environmental considerations, urban design and community engagement. Auckland Council has significant concerns that the consultation processes and timeframes (for the Bill and development plans) will not provide sufficient ability for local government specialist staff, infrastructure providers, communities and developers to provide input.

54. The Bill only provides minimal time and emphasis on local authorities being able to consult on Kāinga Ora project assessments within their own organisations or with their stakeholders. Auckland Council has specific requirements under the LGACA (e.g. local board consultation) and / or Treaty obligations (e.g. consultation with mana whenua). Using a partnership approach, as set out previously in this submission, would enable greater ability to undertake engagement and therefore provide more robust evidence for decision-making.

55. The proposed 10 working day timeframe – within which the relevant TA must indicate whether it supports unconditionally the establishment of a specified development project area, supports it with conditions or opposes it – is insufficient to review the project assessment report and respond in a meaningful way given the governance requirements of any TA (i.e. political sign off would be required which involves a formal meeting of the Council), the specialist input required from across a TA and infrastructure providers and the complexity of urban development. Such a timeframe will likely always result in a TA providing support with conditions due to insufficient time to consider the project assessment report. At a minimum it is recommended that the response time be doubled to 20 working days (approximately one calendar month) to enable a TA to respond effectively.

56. The Bill also does not provide clarity on what public consultation entails (e.g. what level of detail on the proposed development is being put forward to the public). To enable having meaningful public consultation requires a level of information to assess intended

redevelopment proposals and extent of change. It also requires sufficient time and a considered approach to provide opportunities for New Zealand's diverse communities to respond in a meaningful way.

Issues: Duplication of processes

Consents

57. Working together to avoid duplication of systems and sharing resources would also be advantageous. It is difficult to see how duplication of systems (e.g. consent processing and monitoring) would lead to efficiencies. For instance, monitoring of consents needs to be have a consistency in methodology to be able to show overall regional results including those for SDPAs. There is a limited pool of people with expertise in monitoring across the range of topics, particularly environmental. It would make sense to share resources and build a common evidence base where the trends and results from the Kāinga Ora projects can be highlighted.

58. It is unclear what benefit Kāinga Ora would gain by taking on the role of the Resource Consenting Authority in a SDPA, particularly when the powers given to it by the Bill do not include regional consenting functions. In most urban development projects of any scale both district and regional consents are required. For example, in the period from July 2016 to December 2019, within the Central area of Auckland, 16% of consents were regional consents. This was higher in Orewa and Pukekohe, where 26% and 22% of consents were regional, respectively.

59. Introducing Kāinga Ora as a third consenting authority into the consenting process, will in many regions cause unnecessary confusion and complexity. In Auckland where Auckland Council, as a unitary authority, is already providing integrated regional and district consenting, the efficiencies and integrated processes that have been developed could be significantly impacted. This will lead to confusion for both developers and the community.

60. Under the provisions of the Bill, Kāinga Ora cannot consent its own resource consents nor those of any entity it is in partnership with or has a contractual arrangement with. This means that Kāinga Ora will have to resource itself to deal with other resource consent applications within the SDPA, which may have no impact at all on the outcomes of a development plan.

61. The table below covering the period from July 2016 to December 2019 provides an idea of the type and number of consents that Kāinga Ora would need to cover in the Auckland context (depending on the size or scale of a SPDA).

Type Description	Central	Henderson	Manukau	Orewa	Papakura	Pukekohe	Takapuna	Grand Total
Boundary Permitted Activity	70	47	54	145	28	46	59	449
Bylaw Exemption	121	20	32	21	1	7	37	239
Cancel Amalgamation/ Easement	38	14	4	3	1	3	14	77
Certificate	182	48	100	57	14	30	55	486
Change of Condition (s127)	1,322	676	422	587	162	147	446	3,762
Coastal Consent Application	91	20	20	73	4	9	22	239
Discharge Consent Application	624	229	160	317	96	92	131	1,649
Extension of lapse date	132	64	36	58	20	10	30	350
Land Use - Stream Consent Application	36	46	44	75	25	12	48	286
Land Use Consent Application	6,767	3,029	3,711	4,659	876	1,088	3,308	23,438
Outline Plan of Work Application	139	53	111	58	24	30	79	494
RC Pre-application	5,851	1,616	1,403	1,426	587	240	1,494	12,617
Right of Way	75	37	32	40	5	18	32	239
Subdivision completion cert ((s)224C)	1,291	793	905	951	233	482	723	5,378
Subdivision Consent Application	2,623	1,302	1,870	1,114	417	662	1,564	9,552
Subdivision survey plan ((s)223)	1,899	954	1,141	1,279	294	492	1,035	7,094
Tree Consent Application	624	178	141	179	42	16	276	1,456
Vary/cancel consent notice	47	37	28	101	7	14	20	254
Water Consent application	217	41	35	166	20	79	54	612
Grand Total	22,149	9,204	10,249	11,309	2,856	3,477	9,427	68,671

62. It does not seem to be the best use of Kāinga Ora's resources for it to set itself up as a resource consent authority and will take focus away from its main function of developing new houses and urban environments.

63. Auckland Council recommends that Kāinga Ora is not given the mandatory function of a resource consent authority in a SDPA. Rather Kāinga Ora should have a choice to use such powers. If Kāinga Ora chooses not to become a resource consent authority, then the relevant TA in the SDPA should be required to advise Kāinga Ora of any resource consent applications which may impact on the outcomes of the development plan prior to processing the applications and get Kāinga Ora feedback. If a TA declines a resource consent based on Kāinga Ora feedback (i.e. it will have a negative impact on the outcomes of the development plan), Kāinga Ora would be an automatic party to any appeal process.

Data and monitoring

64. TAs are the entities that customers will naturally approach for property information in various forms, such as general enquiry, property information requests, LGOIMA, site reports (such as contamination) and LIM reports.

65. TAs are required to provide statistical information to the Ministry for the Environment National Monitoring Service on an annual basis. This includes a vast array of information relating to application types, timeliness and fees.

66. To meet both customer expectations and legislative requirements, TAs must retain ownership of all documentation relating to resource consents, infrastructure and utility works. The Bill does not require Kāinga Ora to provide a TA with all of the relevant documentation it may collect when using its powers of a resource consent authority and/or as an infrastructure provider. This omission must be rectified.

67. In addition, the Bill needs to explicitly require Kāinga Ora to advise the relevant TA of any identification or remediation plans for natural hazards, as such information also held in TA databases as information for developers and landowners to access during the LIM process.

Issue: Impact on Auckland Council's infrastructure provision

68. Auckland Council's Infrastructure Strategy outlines significant infrastructure issues facing Auckland over the next 30 years, including the sequencing and coordination of infrastructure. The Strategy outlines how council will manage its infrastructure considering factors such as renewals, growth in the demand for services, levels of service provision, public health and environmental outcomes and resilience and risks relating to natural hazards. Network planning is complex and the timing and scale of development must be considered in conjunction with overall network constraints.

69. Auckland Council also includes community facilities and open spaces in its infrastructure network planning. The Bill does recognise this and as a result the Bill includes no duty on Kāinga Ora to consider the implications of its plans on the wider provision networks. This contrasts to the approach proposed for other types of network infrastructure such as roading and three waters.

70. Consequently, the provisions in the Bill which give Kāinga Ora the powers to not only construct and build new infrastructure within a SDPA, but also in areas beyond a SDPA, are of significant concern for Auckland Council. The provisions in the Bill do not sufficiently protect the wider infrastructure networks that exist across a district, and could have unintended consequences on health, safety and capacity issues.

71. Of particular concern is the lack in the Bill of any requirements for Kāinga Ora to comply with established engineering standards or to consult with infrastructure providers on the capacity of the network and to understand the flow on effects of development for the infrastructure provider who will eventually own and operate the asset.

72. Unintended consequences of this gap include potentially incompatible infrastructure networks or Kāinga Ora assets that are developed to a higher or lower standard or level of service than the connecting network, resulting in operational and maintenance costs. Accordingly, Kāinga Ora should be required to comply with the established engineering standards for infrastructure or agree any changes in standards. Additionally, a TA or infrastructure provider should not be required to accept any assets created by Kāinga Ora which do not meet relevant standards or codes of practice unless a mechanism is be provided in the Bill for Kāinga Ora to pay ongoing additional costs associated with asset incompatibility.

73. The timeframes in the Bill for notifying an infrastructure provider of a (potentially significant) connection to their existing network are unreasonable and could have consequences for the wider network. As a connection will be planned significantly more than 20 days prior to construction, it is recommended that the timeframes in this section are extended to allow for parties to agree reasonable conditions.

74. The intent of Clause 157 is supported in principle, as it generally encourages utilities and infrastructure providers, including Kāinga Ora, to work together through observance of the Utilities Access Code. It is noted, however, that Clause 157(c) gives Kāinga Ora the ability to override conditions that would 'unreasonably delay' project objectives being achieved. The Utilities Access Code itself does not allow for unreasonable conditions to be imposed. Therefore, while the need to avoid delay to the SDPAs is understood, there is concern that any conditions that could be overridden would be important to the effective operation of the existing networks.

75. There is a lack of incentives in the Bill for best practice in the infrastructure systems that Kāinga Ora will be responsible for developing. The Bill presents a significant opportunity for integrated transport and water management, grey-water recycling, community scale renewable energy, multi-use 'green' community facilities which have been shown to be best done at the community scale in coordinated developments such as those enabled by this Bill. With the aim of achieving "sustainable, inclusive and thriving communities" the Bill should promote opportunities for best practice design at draft development plan stage.

76. The Bill does not reflect both roading and non-roading infrastructure is often linear and may pass through an SDPA. To consent the linear infrastructure, the infrastructure provider would now need to seek three consents from two different entities, rather than the single bundled consent as is currently required in Auckland. They would have to seek a consent from Kāinga Ora for the district plan rules for the segment within the SDPA, a consent from Auckland Council for any applicable regional rules with the SDPA, and a bundled consent from Auckland Council for the segment of the infrastructure outside of the SDPA. This is inefficient and runs directly contrary to the express purposes of the Auckland Unitary Plan.

Infrastructure Bylaws

77. Auckland Council is concerned about Kāinga Ora's ability to propose bylaw changes through Clause 172, as there are likely to be flow on effects to infrastructure networks outside the project area. There may be particular implications for the Auckland Council Water Supply

and Wastewater Network Bylaw 2015 and the Stormwater Bylaw 2015. The Auckland Council Construction in the Road Corridor and Other Public Places Bylaw 2015, Waste Management and Minimisation Bylaw 2019 and the Trade Waste Bylaw 2013 may also be affected.

78. As an example, Kāinga Ora can override the Water and Wastewater Bylaw in the SDPA. The Water and Wastewater bylaw contains key provisions to:

- protect the network from damage by third parties (Works Over)
- require third parties to meet Watercare standards
- control connections to the network.

79. Kāinga Ora can override all of these in the SDPA – this would not just be for Kāinga Ora developments but would mean that any development (including non Kāinga Ora developments) would not (potentially) have to take measures to protect existing water supply and waste water within the SDPA (and potentially infrastructure outside of the SDPA).

80. Furthermore, the ability for Kāinga Ora to make, amend, suspend or suspend other Bylaws raises several substantive issues:

- potential to create confusion and inconsistent regulatory regimes across Auckland
- potential to introduce confusion around bylaw coverage with respect to geographical boundaries and other criteria such as class of vehicles.
- potential to undermine long-standing and well understood bylaw setting and enforcement arrangements

Watercare Services Ltd

81. Watercare Services Ltd (Watercare) is a Council-Controlled Organisation (CCO) wholly owned by Auckland Council. Watercare ensures Auckland and its people continue to enjoy dependable services by upgrading assets, and by planning, building and delivering new infrastructure. Watercare provides 379 million litres of water to Auckland every day from 27 sources and collects, treats and disposes of 396 million litres of wastewater daily.

82. As well as collaborating with Auckland Council on this submission, Watercare is also submitting its own more detailed submission on the Bill.

83. Auckland Council is concerned that the Bill creates several significant implications for Watercare. The Bill sets out that Kāinga Ora will build the water supply and wastewater infrastructure within the SDPA, and outside to service the SDPA. There is no requirement to meet Watercare's standards for the construction of water supply and wastewater assets. These standards have been developed expressly to ensure that developers construct and transfer high quality assets that will be fit for purpose for the long-term, and can be operated and maintained by the infrastructure provider. There is also no requirement that Kāinga Ora consults with Watercare during the resource consent process to ensure there is sufficient capacity in the water supply and wastewater network, both within the SDPA and upstream or downstream, to service the development.

84. Kāinga Ora has to notify Watercare 20 days before constructing assets. Watercare can impose "reasonable conditions" up to 5 days before construction starts. As indicated previously in this submission the notification timeframe is insufficient. In addition, the reasonableness test is limited and does not include anything about Watercare's requirements

to meet Drinking Water Standards, ensure network capacity, and meet Watercare's requirements under its Network Wastewater Discharge consent that controls wastewater overflows to the environment. The assets would then be transferred to Watercare either:

- by agreement (there is no issue if constructed to standards)
- by consent order – if Watercare refuses to accept assets.

85. Watercare then owns and operates the assets but cannot do any work on its assets within the SDPA without written permission from Kāinga Ora. Kāinga Ora can "alter" existing infrastructure – the definition includes connecting to existing infrastructure. This could mean that Kāinga Ora can make network connections and house connections to the network without Watercare approval.

86. Kāinga Ora can exclude Watercare designations, in particular:

- Kāinga Ora only has to include the designations for "national significant infrastructure" in the Development Plan.
- Watercare infrastructure is not "nationally significant infrastructure" in terms of this Bill.
- Kāinga Ora has to provide a designation for WSL infrastructure that is "similar" but does not need to agree the conditions with Watercare.

87. A significant issue for Auckland Council is that the Bill fails to recognise that Watercare is a water and wastewater operator and would be automatically responsible for any breaches of drinking water standards, and any consequential "public health events" from any Kāinga Ora inherited assets. In light of recent events with other local government districts around water quality and safety of consumers, it is of concern that the processes proposed in the Bill may put communities in Auckland at risk from similar health scares. This appears to be directly contrary to the purpose of the Water Services Regulator Bill that seeks to impose stricter requirements on providers of drinking water.

Auckland Transport

88. Auckland Transport (AT) is a CCO of Auckland Council and has the legislated purpose to contribute to an "effective, efficient and safe Auckland land transport system in the public interest." While Auckland Council has ownership of Auckland's roading network, AT is responsible for the planning and funding of most public transport in Auckland; operating the local roading network; and developing and enhancing the local road, public transport, walking and cycling network.

89. As well as collaborating with Auckland Council on this submission, Auckland Transport is also submitting its own more detailed submission on the Bill.

90. In the development area, Kāinga Ora potentially has the same powers over the local roading network as Auckland Transport. This ranges from corridor management, to altering the course and width of roads, closing roads, building footpaths and cycleways, providing parking spaces and collecting fees and charges, and prosecuting stationary vehicle offences.

91. The proposed arrangements raise several substantive issues:

- potential to undermine network planning, land use goals and provision of an integrated transport network

- ability for Kāinga Ora to develop transport facilities could confuse and complicate existing Public Transport planning and provider arrangements.
- confusion of roles and responsibilities for local communities and developers
- limited requirement to align design and construction standards with AT
- potential for ambiguity and confusion around roading boundaries
- potential for confusion around enforcement functions and practice, for example with respect to development and enforcement of parking restrictions.

Issue: Payment of ongoing operational costs of new infrastructure

92. The Bill does not make provision for Kāinga Ora to consider and pay for the ongoing operational cost of any new infrastructure they create, with a targeted rates impact. The Bill should be altered to provide for an assessment of the ongoing infrastructure operating costs of an SDPA, and agreements reached over contingent liabilities, particularly as assets may be transferred to the TA by order. The assessment should include trade-offs between upfront capital expenditure and ongoing operating expenditure.

93. The Bill has several requirements for TAs to undertake administration, information and data sharing, monitoring etc with no provision to provide for the recovery from Kāinga Ora of the cost to the TA in doing that work. This needs to be addressed in the Bill as the impact on a TA's budget and resources could be considerable.

94. One option for addressing these financial and other resource costs could be the creation of a Memorandum of Understanding (MoU) pertaining to costs and resources which could be put in place to address cost sharing and resourcing. The MoU can be established as a separate process but should be included as a key action point/trigger within the Bill.

Issue: Impact on community facilities and open space

95. In general, the Bill's provisions relating to reserves appear generally consistent with the intent of the Reserves Act 1977. It is noted that the proposed reserve powers should help to expedite the reconfiguration of reserves within development areas (for example, via land exchanges) supporting improved spatial outcomes and amenity values.

96. The process for independent hearings under the Bill allows for the equal consideration of all public submissions. This is preferable to the comparable provisions under the Reserves Act 1977, which place emphasis on submissions from objectors.

97. Auckland Council is concerned that while the Bill includes detailed rules and safeguards governing the treatment of reserves held under the Reserves Act 1977, it has no comparable provisions for the treatment of land administered as park under the Local Government Act 2002. In addition, the Bill expressly requires Kāinga Ora to take existing reserves into account in its project planning but includes no similar obligation to account for other existing open space or community facilities. Land administered as park under the Local Government Act 2002 will be part of a network of open spaces across a district. As such Kāinga Ora must be required to consider the impact on those open spaces as well as Reserves in its development plan.

98. Auckland Council is also concerned that while conservation and scenic reserves are specifically excluded from SDPAs, the same does not apply to regionally significant parks

such as regional parks or to open space/reserves held for historic reasons (e.g. Chelsea Estate Heritage Park and Fort Takapuna). These parks/reserves contribute significantly to local government's ability to provide for the recreational, leisure and civic needs of the communities in their region/district and should not be available for development.

99. Auckland Council acknowledges that there may be other reserves or open spaces that could be reconfigured or better used for urban development in a district and supports the ability of Kāinga Ora to consider these in its development plan. However, where a reserve/open space is to be used for urban development Kāinga Ora should be required to provide replacement reserves/open spaces of similar size elsewhere in the surrounding area to ensure that the community is not negatively impacted. The Bill needs to be amended to require this.

100. Finally, it is noted that the Bill proposes Kāinga Ora may unilaterally vest assets in the territorial authority. In the context of community facilities and open spaces, this may have problematic network implications, unless Kāinga Ora is required to meet local provision and service level standards (as is the case for private developers).

Issue: Funding and financing

101. The Auckland region needs to accelerate investment in infrastructure to address the city's housing issues and to meet the goals of major public and private developers. The Unitary Plan makes land available with a feasible development capacity for 326,000 dwellings. While the council has committed to a record $26 billion capital investment programme further infrastructure investment is required for this land to be developed at the pace required.

102. Auckland Council's lack of debt headroom is the primary constraint on our ability to provide the infrastructure needed to meet Auckland's growth challenges. Borrowing beyond our debt ceiling would risk a downgrade to the council's credit rating, meaning higher interest costs across all our borrowing. Limits on the council's ability to borrow mean that additional investment requires new or alternative financing mechanisms allowing third parties to provide the capital for investment in public infrastructure.

103. As such, Auckland Council supports the infrastructure financing and funding elements of the Bill. The legislation will support the provision of infrastructure to support housing and urban development.

104. Auckland Council supports the compensation for the costs of administering the funding mechanisms. There are no limitations on the ability of either the council or Kāinga Ora to recover the costs of their investments from benefiting landowners (using development contributions and/or rates) within the development area.

105. However, some technical issues need to be addressed to ensure that the seamless operation of both rates and development contributions to maintain cashflow. These technical issues are set out in Attachment two.

106. The council has reviewed the funding arrangements proposed in this Bill alongside those in the complementary Infrastructure Funding and Financing (IFF) Bill, which deals only with raising capital from private sources. The council sees these two Bills as part of a financial package that makes provision for new sources of capital, public (Kāinga Ora) and private (IFF), to increase infrastructure investment without jeopardising the council's financial stability. The council will be making a submission on the IFF Bill in early March.

107. Further technical advice on funding and financing is provided in Attachment C.

Issue: Māori aspirations

108. In relation to the provisions in the Bill relating to Māori the submissions have been guided by views from practitioners within the Auckland Council whānau and the IMSB secretariat with experience in Māori resource management. These views are not a replacement or substitute for central government engagement with mana whenua and mataawaka or intended to represent their position on issues.

109. Auckland Council supports the inclusions in the Bill in regards to Māori aspirations such as the protection of Māori land, First Right of Refusal and the involvement of Māori in the development of the GPS.

110. Early engagement in SDPA development with Māori is essential and critical to partnership/relationships. This was one of the shortfalls of Housing Accord and Special Housing Areas Act and resulted in un-ease with some Māori. Kāinga Ora 's approach to ensure appropriate Māori entities/mana whenua are engaged needs to be addressed consistently throughout the Bill.

111. Clarification is sought in several areas including:

- whether Kāinga Ora has the power as a resource consent authority to remove rules in a district plan that protect sites of significance to mana whenua (as part of their plan making powers) and how they will assess applications impacting on such sites
- provision for the accidental discoveries of artefacts
- confusion if only hapu groups are considered as post-settlement governance entities where iwi groups also have PSGEs established through Treaty settlement
- whether written approval is provided by Māori landowners or PSGEs to Council if they are the requiring authority, if Kāinga Ora develops on Māori or RFR land?
- whether Kāinga Ora as a consent authority is required to consult with mana whenua groups, that have not yet settled, who have an interest in a project area.
- consistency of language and intent in relation to Māori interests e.g. Iwi Management Plans as included in the RMA[1].

Issue: Alignment with other legislation

112. Several other significant government policy proposals are also being consulted on and drafted. The government's reform of the resource management system is seeking to gear the system towards broader outcomes and away from a narrow, effects focused system.

113. In contrast, the Urban Development Bill's current approach is based on minimising effects and does not reflect a wider outcomes-based approach that the RM reform is seeking. For instance, the Bill does not require Kāinga Ora to take into account cumulative effects of its activities (cumulative effects are currently limited to the issue of development contributions objections). The Bill also gives Kāinga Ora the ability to streamline processes and override

[1] Source: https://www.mfe.govt.nz/rma/national-monitoring-system/reporting-data/m%C4%81ori-participation/iwi-hap%C5%AB-management-plans

Resource Management Act 1991 planning instruments and processes to achieve a development project's objectives.

114. However, the setting aside of planning instruments and the streamlining of processes cannot be at the expense of achieving overall outcomes for social, environmental, economic and cultural wellbeing. If these streamlined processes provide advances and models for more efficient ways of delivery, then they should assess for suitability at the wider local government level and be looked at as part of other legislative initiatives.

115. There are opportunities for integration of this Bill with the other directions and/or initiatives, examples of which include the proposed Water Services Bill and Taumata Arowai – Water Services Regulator Bill, RMA reforms, and proposed National Policy Statements on Urban Development, Highly Productive Land, Essential Freshwater and Indigenous Biodiversity.

Attachment A – Local Board Submissions

Feedback of the Albert-Eden Local Board of Auckland Council on the Urban Development Bill

1. The Board are supportive of the Government looking for new or adapted tools to increase the supply of housing in a strategic approach to remove barriers to construction, given the significant housing supply issue across Tamaki Makaurau.
2. We consider that rather than providing these broad new powers now, the Government should refine other processes first to understand their effect on progressing housing supply. Prior to this Bill being progressed further, we urge that the review and reform of the Resource Management Act should be completed, changes to any problematic building and planning rules undertaken and further exploration of appropriate new tools should be undertaken.
3. In relation to the Bill, we acknowledge the critical housing shortage in Tamaki Makaurau. However, the proposed bill is blunt, loses the opportunity for good design and community participation and for the wider Local Government voice to be heard.
4. Local Government NZ has been working to ensure localism is a focus of the Government and wherever possible, decisions are made locally, and that Central Government is devolved to the local. This new Act will undermine the local, in the planning of our city.
5. In Auckland, local boards have a statutory obligation and key role in placemaking. This is one of the key foci of our work. The current Bill omits to include any reference to, or engagement with, local boards and therefore quashes our ability to fulfil our legislated obligations.

Issues that should not be progressed in the Bill:

6. Kāinga Ora and the Independent Hearing Panel should not be able to set the rules for development. The Auckland Unitary Plan (AUP) should be adhered to, in setting the rules for all Specified Development Projects (SDP). The AUP already sets the rules to ensure economic and housing needs are met. The process included a comprehensive decision-making process during which 13,200 submitters were heard. Collectively, they raised more than 93,600 unique requests regarding the AUP. Another body should not be able to set the planning rules for Auckland without full and proper process.
7. Kāinga Ora should not be empowered with Requiring Authority status. That should only be allocated to infrastructure and utility providers and networks.
8. Two Government Ministers should not be able to make the decision whether to accept the recommendations of the Independent Hearing Panel (IHP).
9. Local authorities should retain the consent monitoring and enforcement functions for the development.
10. Kāinga Ora should not be empowered with the ability to process, and veto, all other consent applications within their area, and especially when it is not related to the development. A landowner may be veto'ed from constructing a garage or undertaking house modifications, that has no relevance to the development.
11. Kāinga Ora is proposed to have powers similar to the Public Works Act (PWA). Land should only ever be taken under the PWA for significant local or central government infrastructure or utility projects. The PWA should not apply to privately owned housing for new housing projects.
12. Property taken under the PWA should be offered to original owners should it not be used. The Bill proposes that is not required. Land that is taken under the PWA should not be transferred or on-sold to other parties, including developers.

13. Kāinga Ora or their developer should not have the ability to set, change or suspend bylaws in their area. For example, a suburb with its own specific speed limit, alcohol ban or rules regarding animal welfare is inappropriate. A city should be able to set regionally applicable rules so all residents understand the bylaws in place. Another issue that comes out of this, is who will enforce the bylaws. Will Kāinga Ora or future owners employ its own compliance teams to enforce the bylaws?
14. Kāinga Ora should not be able to revoke, reclassify and reconfigure reserves.
15. Kāinga Ora should not be able to determine the need for open space. This is a role for local authorities in determining the provision and service level required in its areas. The Bill proposes that Kāinga Ora will be able to determine that there are adequate reserves in the area or that provision is impractical. They may then use the development contribution set aside for reserves for other purposes. We disagree.

Amendments that should be made to the Bill:

16. Extend the 10-day timeframe for feedback from the Local Authority in the initial proposal phase. Those most knowledgeable about local areas and challenges are local boards and 10 days is insufficient time for feedback to be provided. In Auckland, local boards should be part of that engagement given their significant powers, placemaking role and their local focus.
17. The inclusion of infrastructure, such as new stormwater connections, must consider the impact on the wider infrastructure network and any network upgrades required as a result.
18. Local Boards hold landowner status for the majority of parks and reserves in Auckland. Local Boards must be consulted to ensure approval will be forthcoming, should any new connection or infrastructure impact on Local Board-governed public open space.
19. If Kāinga Ora do retain the power to revoke, reclassify and reconfigure reserves, that should only be undertaken once the approval of the body that maintains and governs reserves in the local area is secured. In Auckland, reserves managed by Local Boards must have Local Board approval to be changed.
20. Categories of reserves that should be “absolutely protected” should be extended to include historic and scientific reserves.
21. Land that has been gifted to local authorities should be protected to ensure the gift that was intended to be a legacy, is enduring for future generations.
22. In Auckland, Local Boards must be able to submit on the SDP.
23. With regard to roading, the design standards of the local authority must be applied to the design and construction of footpath and roads.
24. The creation of cycleways, pedestrian ways or shared-access ways should not be considered ‘betterment’ but as part of the transport network and should not attract betterment revenue.
25. At least two representatives from the Local Authority should sit on the Governance Team for the SDP.
26. The Independent Hearing Panel (IHP) is only required to give 10 days’ notice for the hearing. This should be extended to 20 working days to enable submitters to be able to organise themselves to attend and participate.

New matters for inclusion in the bill.:

27. The Bill should include a reference stating that reclamation is not possible under the Act.
28. Iwi Management Plans should be given weight in the consenting process.

29. Existing Integrated Area Plans or Spatial Plans should be planning tools that have weight in the consenting process.
30. All applications should have a timeframe at least as long as that which applies to Resource Consents. However, given the extent of planning required for a SDPs, a longer timeframe before the consent expires should sit at 5 years. This is requested as communities and environments change with time especially in rapidly expanding urban environments.

END

Memorandum

7 February 2020

To:	Anna Jennings, Principal Advisor – Urban Growth and Housing
Cc:	Glenn Boyd – Relationship Manager, Henderson-Massey, Waitakere Ranges and Whau Wendy Kjestrup – Senior Local Board Advisor, Henderson-Massey Carol Stewart – Senior Policy Advisor, Local Board Services
Subject:	Henderson-Massey Local Board feedback on the Urban Development Bill
From:	Chris Carter, Henderson-Massey Local Board Chair

Purpose

1. To provide feedback from the Henderson-Massey Local Board to inform Auckland Council's submission on the Urban Development Bill.

Context

2. The Urban Development Bill is a complex piece of legislation which provides specific powers to enable Kāinga Ora-Homes and Communities (Kāinga Ora) to undertake urban development within a defined specified development project area and provides the ability to use powers of acquisition for all Kāinga Ora's development activities.
3. Auckland Council staff have identified some key themes for consideration to inform Auckland Council's submission on the Bill, and local boards have also been invited to provide feedback as part of that submission.
4. Henderson-Massey Local Board agrees with the staff recommendation that Auckland Council maintain support for Kāinga Ora to undertake urban development within specified development areas while noting the following areas of concern:
    - the impact on local decision-making processes
    - duplication of process (particularly consenting)
    - lack of strategic alignment
    - challenges for network planning and funding and infrastructure delivery
    - unachievable timeframes

Feedback from the Henderson-Massey Local Board

5. Henderson-Massey Local Board also wishes to highlight the following concerns.

General

6. Henderson-Massey Local Board supports in principle the proposal to enable Kainga Ora to undertake urban development in certain areas.
7. Henderson-Massey Local Board shares concerns noted in advice to the Planning Committee around duplication of processes and resources, particularly in consenting.
8. Henderson-Massey Local Board shares concerns noted in advice to the Planning Committee around lack of alignment to Auckland Council's strategic planning framework

Auckland Council governance model

9. Henderson-Massey Local Board is concerned about the lack of regard in the bill for Auckland Council's governance model, considering that Auckland will likely be an area of focus for potential Kainga Ora developments due to its size and the high levels of population growth predicted in the region. Not only does the bill create confusion for unitary authorities with its specific provisions around local and regional authorities, but it also fails to recognise the role of local boards and CCOs. Of particular concern are the very tight timeframes proposed in the bill around establishment of Special Development Project Areas.

Acquisition powers

10. Henderson-Massey Local Board has concerns around the potential impact of the powers of acquisition on public open space. Local boards as the landowners for local parks and reserves have effectively no opportunity under this bill to provide meaningful input into a decision which may impact on these reserves. Local plans and strategies developed to guide Auckland Council and CCO project delivery decisions, for example the Henderson-Massey Open Space Network Plan, Connections Plan and Harbourview-Orangihina Masterplan may be overridden, inhibiting cohesive planning within local communities. Overall, the bill does not appear to reflect an understanding of the value of open space to local communities, in particular the value of local parks, recreational reserve or sports parks.

Standards and codes of practice

11. The absence of requirement for Kainga Ora developments to meet normal codes of practice or to work closely with Auckland Transport or Watercare could have negative impacts on the infrastructure network. Issues could arise around health and safety, costs (where the Auckland Council Group takes over maintenance of infrastructure not built to its normal standard) and impacts on traffic congestion and public transport service provision. The local board considers that the bill should include requirements for Kainga Ora to work with the Auckland Council Group to ensure that infrastructure provision in Kainga Ora developments will be safe, meet the needs of growth, and not impose a consequent financial burden on the council group and ratepayers.

Consistency

12. Henderson-Massey Local Board notes the need for regional consistency around provision of assets and infrastructure and service levels. The bill creates potential for inconsistency around the management and maintenance of public assets which could create reputational risk for local boards.

Community infrastructure

13. There is potential for consequential maintenance costs falling to local boards for community infrastructure built as a part of Kainga Ora developments. This is essentially forcing local boards to pay for assets they were not involved in planning.

Engagement with Māori

The local board sees full, meaningful engagement with mana whenua as essential to ensure kaitiakitanga and best practices around environmental management (for example around stormwater run-off and protection of local waterways).

Climate change

14. The Henderson-Massey Local Board is concerned about the lack of consideration for the impacts of climate change in the bill. Auckland Council's Environment and Community Committee declared a climate emergency in June 2019 and committed to, amongst other things:

    - providing strong local government leadership in the face of climate change, including working with local and central government partners to ensure a collaborative response.

- advocating strongly for greater central government leadership and action on climate change.

15. Sustainability and the impacts of climate change need to be a high priority in all new urban development projects. The board considers inclusion of requirements for best practice sustainable urban design within the bill, especially in light of extreme weather events in recent years that have had significant financial and infrastructure impacts on local authorities.

Next Steps

16. This feedback will be reported to the 17 March meeting of the Henderson-Massey Local Board for retrospective ratification.

17. If staff have questions about any of the above feedback, please contact the Senior Local Board Advisor – wendy.kjestrup@aucklandcouncil.govt.nz.

Date 7 February 2020

Chris Carter
Chairperson, Henderson-Massey Local Board

Kaipātiki Local Board submission on Kāinga Ora - the Urban Development Bill

The Kaipātiki Local Board would like to acknowledge the work done by Auckland Council staff to prepare a detailed response to the Kāinga Ora - Urban Development Bill. We endorse the suggestions provided in the Auckland Council response.

The Kaipātiki Local Board agree that there is a significant need to increase housing and support in principle the objectives of the Urban Development Bill. It is important that Auckland Council as a Territorial Authority be seen as a partner with government with a focus on collaboration.

The Kaipātiki Local Board note the following points:

- The Urban Development Bill (UDB) should be put on hold until any future changes to the Resource Management Act have been made, to ensure alignment between both Acts

- Territorial Authorities should be seen as a key partner, not just a stakeholder and a barrier to progress

- UDB can override the Auckland Unitary Plan and have little regard for development beyond the urban boundary, or the infrastructure required for growth in greenfield areas

- Kāinga Ora should not be a Resource Consenting Authority as this will cause confusion and unintended consequences of becoming a 'quasi' local authority, creating a duplicate consenting authority within the Auckland region.

- Territorial Authorities should retain the consenting and monitoring functions of housing developments

- Kāinga Ora should not have the power to veto all other consent applications within their area, especially if the application is from a landowner who wants to make changes on their private land, but finds themselves within a new Special Development Area

- Special Development Areas are undefined in their size and scale. When they are being established SDAs should be defined as properties that are either contiguous to each other ie side by side or within close proximity to each other

- More regard to good Urban Design principles should be incorporated into the UDB

- More reference needs to be given to the social needs for the people who will live in these Special Development Areas, ensuring that there is a provision for adequate schooling at all levels, medical centres, libraries, urban public space such as plazas, open space and recreational areas.

- The UDB is unclear about what protections are given to recreational land and Kāinga Ora should not be able to revoke, reclassify and reconfigure Reserves. This could have significant impacts on our local communities if our Reserves are targeted for Special Development Areas.

- It is being proposed in the UDB that Kāinga Ora be able to determine the provision and service levels required for reserves land. Kāinga Ora also believe that where there is adequate provision, that the development contributions set aside for Reserves could be used for other purposes. We do not support this point and believe that Territorial Authorities and in the case of Auckland Council, that Local Boards also need to be involved in determining the need for open space

- There is inadequate time for Territorial Authorities to provide accurate infrastructure feedback, both in terms of the funding required to implement the necessary infrastructure and to accurately anticipate the appropriate levels needed for the housing developments.

- Greater clarification on who will incur the costs of future-proofed infrastructure and how this will impact on the surrounding and adjacent areas beyond the designated Kāinga Ora Special Development Areas

- The rights of appeal are limited to an Independent Hearings Panel who will present to the Ministers responsible for a final decision. It is unclear if the Minister can override the recommendations of the Independent Hearings Panel

- The setting of Targeted Rates will be removed from local authorities and it is unclear what input Territorial Authorities will have on the setting of these rates

- It is unclear what safeguards will be put in place for properties acquired under the Public Works Act and transferred to developers. It should be a requirement that unused land be transferred back to the original owner in the first instance.

The Kaipatiki Local Board acknowledges the work of Deputy Chair Danielle Grant, for her contribution to the Urban Development Bill political working party and her preparation of the Board's submission.

Māngere-Ōtāhuhu Local Board's Submission: Urban Development Bill

Kāinga Ora – Homes and Communities (Kāinga Ora) is leading the Māngere Development. The Māngere West stage 1 is underway, and Aorere stage 2 will begin work in 2020. The Mangere Development will replace 2,700 state houses with up to 10,000 new mixed healthy homes over the next 10 – 15 years. This submission is the Māngere-Ōtāhuhu Local Board's position on the Bill, with additional recommendations:

LOCAL BOARD POSITION

The Māngere-Ōtāhuhu Local Board support in principle the Urban Development Bill. As the Bill's outcome resonates throughout the local board's local board plan (2017) in particular*: A place where everyone thrives and belongs*, and, *Facilities to meet diverse needs*, outcomes.

IN ADDITION, THE MANGERE-OTAHUHU LOCAL BOARD:

1. Supports it's 2019 submission when, Kāinga Ora – Homes and Communities was established as a new Crown entity. to be part of this submission and highlighting the following:

    - opposes the lack of recognition of local government and supports the inclusion of an operating principle relating to how Kāinga Ora will partner with local authorities within the areas it is operating, including explicit requirements for Kāinga Ora to engage with local government.

    - supports an explicit provision establishing any development by or on behalf of Kāinga Ora, is liable for development contributions, as decisions regarding potential operational infrastructure and amenities will have significant ongoing costs to local government and impact on wider infrastructure networks.

    - supports an explicit provision that any major operational infrastructure decisions in Auckland are subject to ratification by the Governing Body of Auckland Council.

2. Endorse that none of the Bill's powers can be used in respect of Māori customary land, Māori reserves and reservations, or any parts of the common marine and coastal area in which customary marine title or protected customary rights have been recognised

3. Agree that mitigation with the new type of urban development project called specified development project (SDP) are resolved to achieve the Bill's intended outcomes these concerns are as follows:

    - the impact on decision making processes

    - duplication of process (particularly consenting between Auckland Council and Kāinga Ora)

    - lack of strategic alignment

    - challenges for network planning, funding and infrastructure delivery, and

    - unachievable timeframes.

4. Request clarity to Kāinga Ora's 'tool box' of development powers, that appears to exist through numerous separate pieces of legislation, and how each legislation may impact the implementation of the Bill's delivery; as each is designed to address a specific barrier to complex, transformational urban development in a specific project area. These powers broadly cover Infrastructure, Planning and Consent and Funding and further explained as follows:

    - the ability to override, add to, or suspend provisions in Resource Management Act (RMA) plans or policy statements in the development plan that applies to the project area

    - act as a consent authority and requiring authority under the RMA

    - the ability to create, reconfigure and reclassify reserves

    - the ability to build, change, and move infrastructure

    - tools to fund infrastructure and development activities, including the ability to levy targeted rates.

5. Request clarity on the decision-making delegation of Kāinga Ora and the local board's governance role over local facilities and local targeted rate, and implications to the Māngere-Ōtāhuhu community.

6. Supports Auckland Council's position to advocate strongly to central government to ensure alignment of the Bill's strategy is aligned to the latest piece of legislation that impacts on urban growth and housing in particular: Resource Management Act reforms; proposed National Policy Statements on Urban Development, and Highly Productive Land; Essential Freshwater and Indigenous Biodiversity; Infrastructure Funding and Financing Bill; and the National Planning Standards.

7. Endorse the Bill's safeguards that ensure the benefits of development are balanced against environmental, cultural and heritage considerations. The local board request that this goes further to include vulnerable communities and avoid the mistakes from the Tāmaki urban regeneration project. That saw protests and many families alienated after being evicted from their state homes that they've lived in for generations.

8. Request for local Mana whenua, local council governance and community stakeholders are included in the early development planning phase and in a meaningful way, for localised input in context to how the special project area can coherently blend with existing local amenities, natural environment, and transport options to meet the needs of local communities, rather than being informed after Kāinga Ora have completed development plans.

9. Agree for the local board chair or delegate to present the local board's views on the Urban Development Bill to Auckland Council's Planning Committee.

Manurewa Local Board feedback on the Auckland Council submission to the Urban Development Bill

The Manurewa Local Board supported the establishment of Kāinga Ora – Homes and Communities in feedback on that Bill (Resolution number MR/2019/135). However, at that time the board expressed concern that the urban development powers of the new entity were to be subject to a separate Bill as this made it difficult to accurately assess the likely impact of the new entity.

The board was also concerned about potential overlaps in responsibility between Kāinga Ora – Homes and Communities and local government. We felt that care needed to be taken that the new entity should engage with, and work in partnership with, local government when appropriate.

Having now had the opportunity to review the Urban Development Bill, we feel that these concerns have been validated. We believe that the powers proposed in this Bill do not balance the need to facilitate large urban development projects with the need for engagement with local communities and their elected representatives. Many of the powers that are proposed in the Bill give the appearance of overriding local democracy.

For example, the process to establish a specified development project (SDP) area requires local authorities to express whether or not they support the proposal in a short timeframe and without undertaking consultation with their constituents and stakeholders. This is particularly concerning because the establishment of the SDP involves creating a development plan to replace, in part, the existing regional or district plan within that area. The plans being replaced have been created using a process that residents were able to have input into. To replace it using a process with more limited public input, and potentially against the wishes of members of the community and their elected representatives, is damaging to local democracy.

Our board would like to see this process replaced by one where local authorities and community members are allowed more input into deciding where SDP areas should be established. There should be provision for local authorities to define areas where it would not be appropriate to make use of SDPs. A partnership approach between Kāinga Ora – Homes and Communities, local authorities and community stakeholders should be used for decision-making during the project.

The criteria for establishing an SDP in the Bill are very broad and could be used to support a wide variety of projects, including commercial projects. We feel that use of the SPD process should be limited to projects that have a social housing or affordable housing component, or otherwise include a demonstrable public good.

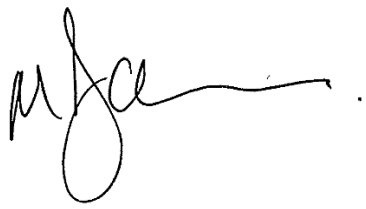
The Auckland Unitary Plan contains protections for Historic Heritage and Special Character Areas. We believe that areas that have been recognised as having heritage or special character value should not be used for SDPs, and that the Bill should include provisions to prevent SDPs from having detrimental effect on the character of such areas. Additionally, the Bill should provide measures to ensure that development carried out in SDPs does not negatively affect neighbouring areas. Care should be taken when defining SDP boundaries to respect communities of interest.

Our board believes that the Bill should include requirements that SDPs reflect principles of quality urban design. Intensive developments should include sufficient provision of green space, whether private or shared. Public open space should not be relied upon to meet these requirements.

We feel that the relationship of this Bill with the current review of the Resource Management Act is unclear. One of the purposes of that review is to recommend changes to planning legislation in order to reduce restrictions on urban development. If the review is successful in achieving that purpose, it would render the provisions of this Bill unnecessary. Additionally, the policy work that was undertaken to establish the need for an urban development authority took place under the existing planning legislation. If that legislation is to change, this advice might no longer be relevant. For these reasons, we believe that it would be more prudent to wait until the Resource Management Act review is completed before progressing the Bill.

Our board is concerned that this Bill does not address the potential issues that could be created when infrastructure and assets created as part of an SDP are transferred to a local authority at the conclusion of the project. Provision should be made to ensure that this does not impose unfunded costs of the local authority. The impact of this issue could be lessened if local authorities were given more involvement in decision making on the SDP. In that case, the local authority would be able to advise on the likely effects that the creation of the asset would have once the project is completed, and provision to address that impact could be agreed at the time of creation.

While we acknowledge that this legislation is part of larger suite of measure to address planning and infrastructure issues, we note that it is unlikely that the measures in this Bill will be effective in enabling urban development if the problems of infrastructure financing and shortages of skilled labour, plant and equipment to carry out development are not also addressed. Without measures to address these issues, it seems unlikely that the Bill will succeed in its aims.



Joseph Allan, Chairperson
4 February 2020
On behalf of the Manurewa Local Board

Memorandum

4 February 2020

To:	Chris Makoare, Chairperson – Maungakiekie-Tāmaki Local Board; Debbie Burrows, Deputy Chairperson – Maungakiekie-Tāmaki Local Board; Nina Siers, Relationship Manager – Maungakiekie-Tāmaki and Puketāpapa Local Boards
cc:	Christie McFadyen, Senior Local Board Advisor – Maungakiekie-Tāmaki Local Board; Anna Jennings, Principle Advisor – Urban Growth and Housing
Subject:	Urgent decision request of the Maungakiekie-Tāmaki Local Board
From:	Mal Ahmu, Local Board Advisor – Maungakiekie-Tāmaki Local Board

Purpose

1. To initially seek the local board relationship manger's authorisation to commence the urgent decision-making process and if granted, seek formal approval from the chair and deputy chair (or any person acting in these roles) to use the process to make an urgent decision.
2. The decision required, and the supporting report, are attached to this memo. The urgent decision being sought needs to be authorised by the chair and deputy chair (or any person acting in these roles) by signing this memo. Both this memo and the report will be reported as an information item at the next business meeting if the urgent decision-making process proceeds.

Reason for the urgency

3. Local Boards have a role in representing the views of their communities on issues of local importance, such as inputting local impacts of Central Government proposals into Auckland Council submissions.
4. Due to the Christmas/New Year period, Maungakiekie-Tāmaki Local Board's first business meeting for the 2020 calendar year is on 25 February 2020.
5. The due date for submissions to Central Government's Urban Development Bill is 14 February 2020. A workshop was held for local board members on the Bill on 31 January 2020. The draft Auckland Council submission will be presented to the Planning Committee on 4 March 2020 and final approval by delegates on 11 February 2020. To meet these timeframes local board feedback is due by 7 February 2020.

Decision sought from the chair and deputy chair (or any person acting in these roles)

That the Maungakiekie-Tāmaki Local Board:

a) provide input into Auckland Council's submission on Central Government's Urban Development Bill.

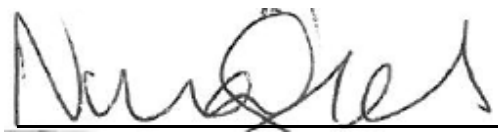
Context

6. On 1 October 2019, the Kāinga Ora – Homes and Communities Bill established Kāinga Ora – Homes and Communities as a new Crown entity by:

- disestablishing Housing New Zealand Corporation (HNZC) and Homes Land Community (HLC)
- putting HNZC and HLC's assets into Kāinga Ora - Homes and Communities
- repealing the Housing Corporation Act 1974
- putting some of the functions and assets related to KiwiBuild that currently sit in the Ministry for Housing and Urban Development into Kāinga Ora - Homes and Communities.

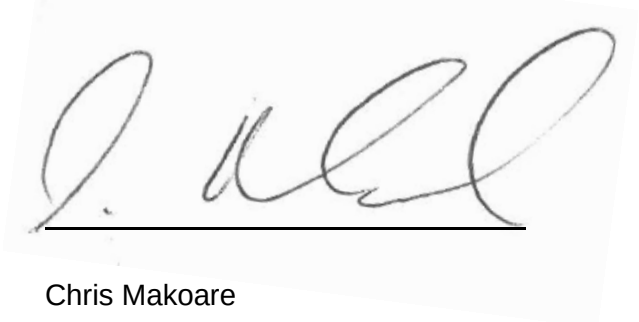
7. Kāinga Ora has two key functions; being a public housing landlord and leading and coordinating urban development. The entity's objective is to "contribute to sustainable, inclusive and thriving communities that:
   - provide people with good quality, affordable housing choices that meet diverse needs; and
   - support good access to jobs, amenities and services; and
   - otherwise sustain or enhance the overall economic, social, environmental and cultural wellbeing of current and future generations."
8. The Urban Development Bill was introduced to Parliament on 5 December 2019 and had its First Reading on 10 December 2019. It has now been referred to Select Committee. The Bill sets out the functions, powers, rights and duties of the Kāinga Ora to enable it to undertake its urban development functions.
9. Development powers are set out under the following categories;
   - Infrastructure – scope potential works, three waters and drainage infrastructure, roading, parking, public transport, transfer of ownership, bylaw powers
   - Planning and Consenting – amendments to district plan, regional plan or regional policy statement, issue consents, shortened consent process, requiring authority powers, veto or amend applications of resource consents or plan changes in the project area
   - Funding – Set and asses targeted rates, require development contributions, require betterment payments, require infrastructure and administrative charges
   - Land Acquisition and Transfer – exchange, revoke, reconfigure some reserves, create, classify and vest reserves, transfer and set apart Crown owned land, acquire private land, transfer of ownership, buy, sell and hold land in own name, transfer of former Māori land.

Approval to use the urgent decision-making process



Signed by Nina Siers
Relationship Manager, Maungakiekie-Tāmaki Local Board Date: 5 February 2020

Approval to use the urgent decision-making process



Chris Makoare
Chairperson, Maungakiekie-Tāmaki Local Board Date: 7 February 2020

Debbie Burrows
Deputy Chairperson, Maungakiekie-Tāmaki Local Board Date: 7 February 2020

Maungakiekie-Tāmaki Local board Resolution/s

That the Maungakiekie-Tāmaki Local Board:

a) note that the Maungakiekie-Tāmaki Local Board area has a significant level of urban development planned and currently in progress and that this Bill is likely to significantly impact the Maungakiekie-Tāmaki community

b) oppose Central Government's proposed Urban Development Bill, as the proposed tools and feedback timeframes that Kāinga Ora will have access to indicates that Kāinga Ora would potentially work from a distance and may disregard current and future communities' aspirations and needs, putting ratepayers and our local community at high-risk of disempowerment, noting:

   i) the local board do not have strong confidence in large-scale crown entities, due to the current experience of working with the New Zealand Transport Agency which operates from a distance, inhibiting effective and efficient collaboration

c) note that the local board previously supported in principle Auckland Council's submission on the establishment and principles of the Kāinga Ora – Homes and Communities Bill, when the powers that Kāinga Ora could assume were not yet defined

d) endorse quality urban development as highlighted in the *Maungakiekie-Tāmaki Local Board Plan 2017*, which sets out intent to collaborate with housing developers to create new developments that are high-quality and reflect the flavour and character of our local area.

e) recommend Kāinga Ora take a more collaborative approach with local government and recognise Auckland Council's unique governance model as established under the Local Government (Auckland Council) Act 2009, noting that:

   i) local boards have a key role in Tāmaki Makaurau/Auckland to:

      - represent the views of our community on issues of local importance

- maintain and upgrade local facilities, town centres and parks
- care for the environment

ii) Local Government New Zealand recently released its discussion paper on localism which depicts how communities feel empowered to participate when they are provided the opportunity and visibility to engage in decision-making processes

iii) the Maungakiekie-Tāmaki Local Board currently has an efficient and meaningful collaborative relationship with the Kāinga Ora staff working on housing developments in the local board area. There are concerns that this Bill will diminish the relationship that has been built not only with the local board, but also with local communities

f) recommend that Kāinga Ora must consider local planning documents, particularly local board's planning documents and strategies in the context of Tāmaki Makaurau/Auckland, as these plans have had a significant level of local input that will ensure that urban development meets the needs of both the current and future communities

g) oppose Kāinga Ora's proposed ability to utilise the Public Works Act to compulsorily acquire land, namely existing homes, for the purpose of housing developments due to the impact of dislocation, which has already been significantly experienced by the Maungakiekie-Tāmaki community

h) recommend that any investment by Kāinga Ora in community amenities and infrastructure factors in the "whole of life cost" of any new asset that has any intention to be handed to local government to manage in the future, noting the impact this could potentially have on local government financially

i) oppose the use of reserve land for urban development without guarantee that the current provision of public open space will be upheld or amplified to create healthy and quality urban environments for our communities

j) recommend that the Urban Development Bill take greater consideration of climate change and put in safeguards to protect and improve the physical environment within the local areas being developed, noting that Point England and Onehunga have been identified as locations in the local board area at higher risk of environmental degradation

Chris Makoare
Chairperson, Maungakiekie-Tāmaki Local Board Date: 7 February 2020

Debbie Burrows
Deputy Chairperson, Maungakiekie-Tāmaki Local Board Date: 7 February 2020

Ōtara-Papatoetoe Local Board
Auckland Council

Memo

3 Jan 2020

To: Anna Jennings, Principal Advisor, Urban Growth and Housing

cc: Victoria Villaraza, Relationship Manager, Local Board Services

From: Ōtara-Papatoetoe Local Board

Subject: Ōtara-Papatoetoe Local Board's feedback on the Urban Development Bill

Context/Background

The Urban Development Bill was introduced in Parliament on 5 December 2019. It follows on from the Kāinga Ora–Homes and Communities bill, which disestablished Housing New Zealand and set up a Crown entity in the same name. The purpose is to provide specific powers to enable Kāinga Ora-Homes and Communities (Kāinga Ora) to undertake urban development within a defined specified development project area (SDPA) as well as providing the ability to use powers of acquisition for all Kāinga Ora's development activities. This piece of legislation impacts on urban growth and housing.

Local boards received a memo with details on 16 January 2020 and were invited to attend a workshop on the Bill on 31 January 2020. Local boards have the opportunity to give feedback, by 7 February 2020 which will be appended to the council submission.

Feedback:

The Ōtara-Papatoetoe Local Board notes the following points as feedback:

a. **Affordable housing:** The board is in principle supportive of government's intent of the Bill, that is, to improve the social and economic performance of New Zealand's urban areas. The board recognises that local communities are in need of affordable homes.

b. The board acknowledges that giving Kāinga Ora more powers and establishing specified development project areas (SPDA) will speed-up the building process and allow more houses to be built, many of these will benefit families in our local board area. However as highlighted in Auckland Council submission to an earlier Bill, the Kāinga Ora – Homes and Communities Bill, the need to see the detail of how the new urban development entity, Kāinga Ora, would operate and what powers would be afforded to it is pertinent to implications on the ground.

c. **Scope of Kāinga Ora's powers and Auckland's governance model, role of local boards:** The board has a serious concern about the scope of some of those powers, including and specifically Kāinga Ora's powers regarding:

   - the resource consenting process and
   - powers of acquisition of reserves that may include the acquisition of local reserves, parks and playgrounds without consultation with our local boards.

d. **Place-making and local plans:** The Bill should recognise the governance role of Territorial Authorities, including that of Local Boards. Given the place-making role of local boards and the increased rhetoric about 'localism' and 'subsidiarity' regarding local government, it would be appropriate for the Bill to recognise Councils and Local Boards as more than merely 'stakeholders'. Kāinga Ora should be required to work in partnership with Councils and Local Boards to build better 'communities' – this aligns well with the overarching objective of the Bill.

e. Auckland has a unique governance model and local boards have a responsibility in place-shaping, are responsible for decision-making on local issues, activities and services. These activities include maintaining and upgrading town centres, facilities including local parks and caring for the local environment, preserving heritage.

f. **Gap in strategic alignment:** The provisions in the Bill and operational requirements from Kāinga Ora must include reference to local context of plans and strategies. Currently there is a gap in strategic alignment as the community effort that shaped the making of plans and strategies, including those at a local board level, are not considered – e.g. Auckland Plan 2050, Local Board Plans, Open space network plans, community facilities network plan..

g. **Acquisition of reserves:** The board has serious concerns on giving power to Kāinga Ora to acquire reserves. This proposal implies loss of limited green open spaces due to urban intensification and growth. Further, the Bill does not place a requirement on Kāinga Ora to replace green space if reserves are acquired. This is at a time when local communities are demanding open spaces and it is important for them to protect and preserve green space or the limited reserve areas we have. There is huge risk of loss of oversight from a local governance perspective.

h. **Communication, consultation with local population:** There is a high risk of confusion, communication gaps and even duplication for local communities, applicants and developers if Kāinga Ora was automatically the resource consent authority. The unintended complications can arise as many urban developments require both district and regional consents. Local boards are the first point of contact for communities and it is important for the Bill and Kāinga Ora to recognise local governance roles and responsibilities and engage as partners.

i. **Development powers outside of SPDA:** The board is concerned about the extensive powers with Kāinga Ora for developments that are not a SDPA may result in situations where small developments, in smaller parcels of land such as that around Papatoetoe, will go ahead without consulting with neighbours or local residents.

j. **Reduce upheaval and negative impact on vulnerable communities:** The Ōtara-Papatoetoe Local Board is of the view that a greater emphasis on community involvement and participation is warranted. As noted earlier, many important plans and strategies have been prepared by council based on significant involvement by the community. The Bill in its current form does not require these to be taken into account and there is huge risk that local communities will be left out of this major change process. A large part of the planned developments are in southern local areas of Auckland, it is in our areas that SDPA will be implemented, where large parts of our communities are vulnerable and at risk and will have to experience major upheavals.

k. **Shared prosperity:** A challenge for Auckland and Ōtara-Papatoetoe local area is taking actions to share prosperity and opportunities with those more vulnerable. The development projects which Kāinga Ora will lead are expected to improve employment and business opportunities. The Ōtara-Papatoetoe Local Board would like to see the inclusion of **'social procurement'** that result in creating jobs for local people and opportunities for local business in these development projects. These opportunities must be proactively offered to locals in the first instance. These are significant urban developments in the local areas and meaningful pathways need to be designed to empower locals for employment and to enable them to make the most of the business opportunities.

l. **Policy instruments for pathways to home ownership:** The board recognises the need in our communities for affordable housing and advocates for putting into place policy instruments and measures to assist locals get into home ownership through the SDPA. Maori and Pacific homeownership rates have plummeted and owning real estate has been shown to be one of the biggest factors in wealth growth amongst New Zealanders, even more significant a factor than education. This is an opportune time to take steps that can make a tangible difference or else the big changes will have a reverse effect on our communities if our families are priced out of local areas, instead of providing affordable homes for all.

The Ōtara-Papatoetoe Local Board appreciates the opportunity to give feedback and is interested to be informed of the next steps and progress on the Bill.

Lotu Fuli

Chair, Ōtara-Papatoetoe Local Board

Papakura Local Board input into the Auckland Council's Submission on the Urban Development Bill

About the Papakura Local Board

Papakura Local Board is one of 21 local boards which are part of the Auckland Council co-governance model. The board has responsibility for local decision making while the Governing Body has the regional decision making focus.

The board's population, as at the 2018 census, was 57,636. The population is ethnically diverse with 49.1% European, 26.8% Māori, 23.4% Asian and 16.9% Pacific peoples. Since the 2013 census there has been a significant growth in the Asian population. Papakura still has the largest Māori population per capita. The median age in Papakura is 32 years, with 23.6% of the population being aged between 0 and 14 years.

Background

The Kāinga Ora – Homes and Communities Bill established Kāinga Ora – Homes and Communities as a new Crown entity on 1 October 2019 by:

- disestablishing Housing New Zealand Corporation (HNZC) and Homes Land Community (HLC)
- putting HNZC and HLC's assets into Kāinga Ora - Homes and Communities
- repealing the Housing Corporation Act 1974
- putting some of the functions and assets related to KiwiBuild that currently sit in the Ministry for Housing and Urban Development into Kāinga Ora - Homes and Communities.

Kāinga Ora has two key functions; being a public housing landlord and leading and coordinating urban development. The entity's objective is to "contribute to sustainable, inclusive and thriving communities that:

a) provide people with good quality, affordable housing choices that meet diverse needs; and

b) support good access to jobs, amenities and services; and

c) otherwise sustain or enhance the overall economic, social, environmental and cultural wellbeing of current and future generations."

The Urban Development Bill sets out the functions, powers, rights and duties of the Crown entity, Kāinga Ora-Homes and Communities (Kāinga Ora) to enable it to undertake its urban development functions.

Submissions on the Bill are currently open until Friday 14 February. Local Board input is required by Friday 7 February to be appended to the Auckland Council submission.

Papakura Local Board feedback

1. The Papakura Local Board is concerned about the wide ranging powers in this Act that potentially undermine council's long-term planning documents, ie: the Auckland Plan and the Auckland Unitary Plan.

2. The board believe that development occuring out of planned sequence will impact on the wider council infrastructue and network, eg: roading, public transport, community facilities, water and waste water infrastructure.

3. The board believe there should be a requirement to consult with a territorial authority about a proposed specified development project and development plans.

4. The board believe the legislation will potentially have an impact on council and its CCO's operational resources.

5. The board believe that council should be able to charge development contriubtions for specified development projects as there will be an impact on the wider council network.

6. The board is concerned about the duplication of processes and the impact on the limited pool of staff.

7. The board believe there should be an opportunity for public input into any proposed specified development project or development plan.

8. The board believe it is imperative that Māori aspirations are recognised in the Bill. This Bill should reflect the Resource Management Act Māori provisions to ensure consistency between the Acts.

9. The board believe this Act should complement the Resource Management Act (RMA) requirements and not be used as tool to supercede any RMA consultation requirements.

10. The Act could make provision for a role for Māori in the decision making process.

11. The board believe any proposed specified development project or development plan should not impact on Treaty claims.

12. The board is concerned this Bill provides powers for compulsory acqusition of private land for housing purposes.

13. The board feel that if council is required to collect the infrastructure levy on behalf of the urban development authority, council should be able to claim the administrative costs for this service.

14. The board agree it makes sense that council is best placed to collect the infrastructure levy. However, there a political risk in relation to the levy being collected by the local authorities. While the first purchasers may understand the purpose of the charge, over time subsequent purchasers may not necessarily understand. This could create a political risk in the three year election cycle.

15. The board is questioning, if purpose of this Act is to build affordable housing, has consideration been given to the impact of higher day to day costs associated with the specified development project in terms of the targeted rate or infrastructre levy. The owner would be charged a targeted rate or levy for the infrastructure on top of paying council rates. Does this achieve the objectives of affordable housing?

16. The board believe it is imperative to protect the green space set side in regional parks, local parks and reserves. The urban development authority must not be able to develop on land designated for parks and reserves.

17. Specified development areas and development plans must have green space included to ensure quality urban development and healthy communities.

18. Consideration must also be given to the protection of quality soils for food production.

19. The board does not agree that Kāinga Ora should be given powers in relation to proposing amendments to existing bylaws, revoking existing bylaws and making new ones within a specified development project area, in relation to roads and non-roading infrastructure that connects or services non-roading infrastructure. This will create confusion for the public. Auckland Council has spent several years in consolidating and updating its bylaws. The board believes these powers should still remain with the local authority.

Brent Catchpole
Chairperson
Papakura Local Board

Jan Robinson
Deputy Chairperson
Papakura Local Board

Date: 7 February 2020

Feedback on:

The Ministry of Housing and Urban Development's Urban Development Bill

4 February 2020

Context

1. The Ministry of Housing and Urban Development is seeking feedback on Urban Development Bill. The due date for submissions on the Bill is Friday 14 February.
2. This feedback from the Puketapapa Local Board will be made by Urgent Decision, by the Chair and Deputy of the board, and by appended to the Council submission.

Relevance to the Local board

3. Local boards are responsible for decision-making on local issues, activities and services and providing input into regional strategies, policies and plans. Local boards also have a role in representing the views of their communities on issues of local importance.
4. Every three years local boards set their strategic direction through a local board plan. The Urban Development Bill has relevance to all the outcomes in the 2017 Puketāpapa Local Board Plan, in particular urban development.
    - Connected communities with a sense of belonging
    - Improved wellbeing and safety
    - Thriving local economy and good job opportunities
    - Transport choices meet our varied travel needs
    - **Urban development meets community needs**
    - Vibrant and popular parks and facilities
    - Treasured and enhanced natural environment

Local board submission:

5. Puketāpapa Local Board:
    a) supports the assessment and views expressed in the Auckland Council submission on the Urban Development Bill
    b) endorses the importance of local government as a collaborator/partner with Kāinga Ora, rather than a stakeholder
    c) acknowledges the collaborative working relationship it has had with Homes Land Community since its creation. The local board meets regularly with the agency to provide advice and support. This has not only benefited the board and Kāinga Ora, but improved community outcomes. For many years the board has allocated budgets to projects where Council staff work alongside HLC/ Kāinga Ora to achieve positive

community outcomes. The board looks forward to an ongoing relationship with Kāinga Ora.

i. Seeks that this kind of collaboration with local government is a requirement of the Act
ii. Offers to provide further information about the details of the board's work with Kāinga Ora, if that would assist in the development of the Bill

d) highlights the following points in relation to implementation:

- the urban scale - any specified development opportunity should be assessed as a part of the wider urban fabric. It needs to fit within existing plans, such as the Unitary Plan and local spatial plans. This should be a requirement in the Act.
- design expertise - Project Governance Body and Independent Hearing Panels should have suitable representation by people with expertise in urban and building design. Without this, there is potential for a lost opportunity for interpreting and critiquing the scheme as it evolves. By broadening opportunities for feedback, beyond planners and project managers, there can be more holistic urban design outcomes.

End.

Waiheke Local Board feedback on the Government's Urban Development Bill

The bill would empower the establishment of Specified Development Projects which are the engine of Kāinga Ora, project-based entities that can be created for a narrow or wide purpose. It could extend to a general joint venture between central government and a city council, or a city council, an Iwi and a developer. They would have the power to issue their own resource and building consents.

Feedback

The Waiheke Local Board:

i. supports, in principle, the government's programme to establish Specified Development Projects to streamline housing projects.

ii. recommends that all projects be executed in partnership with local authorities and iwi to ensure local buy-in and support.

iii. opposes any overlap in functions between Kāinga Ora – Homes and Communities and local government.

iv. strongly opposes any removal of planning powers from democratically elected local government, and any government entity having the powers to override local government planning regulations or forgo community consultation.

v. notes extensive community consultation occurred during the development of local government planning strategy documents and recommends that Kāinga Ora aligns its efforts with these documents such as the Auckland Plan and local area plans.

vi. strongly recommends that Kāinga Ora follows codes of practice for infrastructure and utility providers to ensure high quality delivery of projects up to, and surpassing, New Zealand standards.

vii. opposes any projects proposed in the rural areas outside of the rural urban boundary.

viii. requests that projects be consistent with urban design characteristics agreed by local communities and local authorities e.g. the Waiheke community has made a clear statement through documents like Essentially Waiheke 2016[1] that its wishes to retain a rural character on Waiheke including such characteristics as protected coastal areas, winding narrow roads with overhanging native trees and commitment to ecological enhancement.

ix. requests a greater focus on environmental sustainability and climate resilience and asks how this will be given effect to in practice, for example development locations and flood plain areas which are vulnerable to predicted sea level rise.

x. requests increased focus on building community resilience and the creation of connected, complete communities.

xi. requests that it is expressly stated in legislation that development undertaken by Kāinga Ora – Homes and Communities is liable for development contributions assessed under section 198 of the Local Government Act 2002.

Waiheke Local Board February 2020

1 Auckland Council. (2016). Essentially Waiheke Refresh 2016 retrieved from https://www.aucklandcouncil.govt.nz/about-auckland-council/how-auckland-council-works/local-boards/all-local-boards/waiheke-local-board/Documents/essentially-waiheke-refresh.pdf

Memo

To: Anna Jennings – Lead Planner (North/West), Auckland Council

From: Greg Presland – Chair, Waitakere Ranges Local Board

Subject: Urban Design Bill

Date: Monday 10th February 2020

The following is feedback from the Waitakere Ranges Local Board on the Urban Design Bill.

Firstly, the definition of what is an Urban development is unclear. Section 10 defines "urban development" in the following terms:

(1) In this Act, urban development includes—

> (a) development of housing, including public housing, affordable housing, homes for first-home buyers, and market housing:
> (b) development and renewal of urban environments, whether or not this includes housing development:
> (c) development of related commercial, industrial, community, or other amenities, infrastructure, facilities, services, or works.

The definition is very wide. Development of housing can occur anywhere in the country and theoretically most areas could conceivably be subject to the act. Although there are practical limitations on the exercise of the power the definition is overly wide in our opinion. The current definition of "urban development" and then trigger the powers under the Act would allow for more development through this means than was intended.

Of particular concern is the potential effect on the Waitakere Ranges Heritage Area. The area was formed by the Waitakere Ranges Heritage Area Act 2008, a local Act that was formulated over an extended period of time which enjoys remarkable support in our local board area.

Most of the heritage area is zoned rural, so with a sufficiently precise definition can be excluded. But some of it (Titirangi, Woodlands Park/Waima and Laingholm) is zoned residential large lot.

Under the Bill Kainga Ora assesses projects and is obliged to identify "at a high level, constraints and opportunities that arise for the project". Constraints include under section 34(1)(a)(vi) "any area or feature of land protected under a local Act (for example, under the Waitakere Ranges Heritage Area Act 2008)". The fact that the Act is referred to specifically shows an intent to respect the intent of the Act.

The report to be prepared to assess potential projects under the Bill must identify "how environmental constraints and opportunities associated with a specified development project will be managed".

A development plan has the potential of being very powerful. Under section 91 of the Bill "[s]ubject to section 60, a development plan may, for the duration of the specified development project, override, add to, or suspend the whole or part of any planning instrument that applies to the project area.

(2) However, subsection (1) does not—
(a) apply to any objective, policy, rule, or other method relating to historic heritage included in a planning instrument, unless the change imposes more stringent management or protection for historic heritage."

It is not clear that the Waitakere Ranges Heritage Area overlay would qualify as "historic heritage". Explicit acknowledgement of this would be helpful.

The Waitakere Ranges Heritage Area Act 2008 has particularly strong provisions relating to discretionary or non complying applications. Under section 13:

"When considering an application for resource consent for a discretionary or non-complying activity in the heritage area, a consent authority—

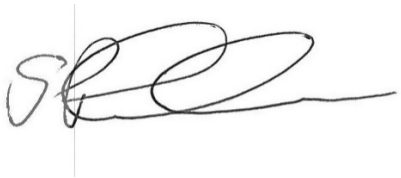
(a) must have particular regard to—
(i) the purpose of this Act and the relevant objectives; and
(ii) the relevant provisions of any national policy statement or New Zealand coastal policy statement; and
(b) must consider the objectives having regard to any relevant policies in the regional and district plans."

The Urban Development Bill powers would conceivably weaken considerably this protection because apart from noting the constraints posed by the Heritage Act it does not specifically require the decision making entities to have particular regard to the purpose of the WRHA Act or its purpose or objectives.

We propose that the Bill be amended to provide the following:

1. Clearer definition of "urban area". As a minimum in the Auckland context it could include land within the Rural Urban Boundary.
2. Amending section 91(2)(b) to specifically require Kainga Ora to comply with the Heritage Act as if it was the Council if developing a plan that involves land located in the Heritage area or assessing an application for a resource consent relating to land within the area.

Regards



Greg Presland
Chairperson
Waitakere Ranges Local Board

Waitematā Local Board submission on the Urban Development Bill

The Board are supportive of the Government looking for new or adapted tools to increase the supply of housing in a strategic approach to remove barriers to coherent development and construction and the provision of affordable housing, given the significant housing supply issue across Tamaki Makaurau.

In relation to the Bill, we acknowledge the critical housing shortage in Tamaki Makaurau. However, the proposed bill is blunt, loses too much of the opportunity for good sustainable design and community participation and for the wider Local Government voice to be heard.

Local Government NZ has been working to ensure localism is a focus of the Government and, wherever possible, decisions are made locally, and that appropriate Central Government roles are devolved to, or retained with, the local. This new Act will undermine the local, in the planning and development of a city.

Issues that should not be progressed in the Bill:

Kāinga Ora and the Independent Hearing Panel should not be able to set the rules for development. At least for Auckland the Auckland Unitary Plan (AUP) should be adhered to, in setting the rules for all Specified Development Projects (SDP). The AUP already sets the rules to ensure economic and housing needs are met. The process included a comprehensive decision-making process after very many submitters were heard. Another body should not be able to set the planning rules for Auckland without full and proper process.

An individual Government Minister or two should not be able to make the decision whether to accept the recommendations of the Independent Hearing Panel (IHP).

Local authorities should retain the consent monitoring and enforcement functions for the development.

Kāinga Ora should not be empowered with the ability to process, and veto, all other consent applications within their area, and especially when it is not related to the development. A landowner may be at risk of being vetoed from constructing a garage or undertaking house modifications, that has no relevance to the development.

Kāinga Ora is proposed to have powers similar to the Public Works Act. Land should only ever be taken under the PWA for significant local or central government infrastructure projects. It is appropriate that substantial housing or urban redevelopment projects could legitimately be considered as meeting the infrastructure development test in some circumstances This PWA type power could apply to privately owned housing for new housing and urban development projects but only after carefully defined criteria are applied, including robust public consultation and where a small proportion of landowners would otherwise veto a project of major public benefit.

Property taken under the PWA should be offered to original owners should it not be used. The Bill proposes that is not required. Land that is taken under the PWA cannot be transferred or on-sold to other parties, including private developers

Kāinga Ora or their developer should not have the ability to set, change or suspend bylaws in their area. For example, a suburb with its own specific speed limit, alcohol ban or rules regarding animal welfare is inappropriate. A city should be able to set regionally applicable rules so all residents understand the bylaws in place. Another issue that comes out of this, is who will enforce the bylaws. Will Kāinga Ora or future owners employ its own compliance teams to enforce the bylaws?

Kāinga Ora should not be able unilaterally to revoke, reclassify and reconfigure reserves, although it could seek appropriate land swaps with local authorities to provide reserves that appropriately enhance a development.

Kāinga Ora should not be able to determine the overall level of open space. This is a role for local authorities in determining the provision and service level required in its areas. The Bill proposes that Kāinga Ora will be able to determine that there are adequate reserves in the area or that provision is impractical. They may then use a development contribution for reserves for other purposes. We disagree.

Amendments that should be made to the Bill:

Extend the 10-day timeframe for feedback from the Local Authority in the initial proposal phase. Those most knowledgeable about local areas and challenges are local boards and 10 days is insufficient time for feedback to be provided. In Auckland, local boards should be part of that engagement given their significant powers and their local focus.

Greater emphasis should be given specifically to good sustainable urban design. Low carbon, energy efficient designs are required close to public transport networks with accessible active transport and with quality social infrastructure.

Provisions for the inclusion of infrastructure, such as new stormwater connections, must consider the impact on the wider infrastructure network and any network upgrades required as a result.

Local Boards hold landowner status for the majority of parks and reserves in Auckland. Local Boards must be consulted to ensure approval will be forthcoming, should any new connection or infrastructure impact on Local Board-governed public open space.

If Kāinga Ora do retain the power to revoke, reclassify and reconfigure reserves, that should only be undertaken once the approval of the body that maintains and governs reserves in the local area is secured. In Auckland, reserves managed by Local Boards must have Local Board approval to be changed.

Categories of reserves that should be “absolutely protected” should be extended to include historic and scientific reserves.

Land that has been gifted to local authorities should be protected to the extent currently applying to ensure the gift that was intended to be a legacy is enduring for future generations.

In Auckland, Local Boards must be able to submit on the SDP.

With regard to roading, the design standards of the local authority must be applied to the design and construction of footpath and roads.

The creation of cycleways, pedestrian ways or shared-access ways should not be considered ‘betterment’ but as part of the transport network and should not attract betterment revenue.

At least two representatives from the Local authority should sit on the Governance Team for the SDP.

The Independent Hearing Panel (IHP) is only required to give 10 days’ notice for the hearing. This should be extended to 20 working days to enable submitters to be able to organise themselves to attend and participate.

New matters for inclusion in the bill.:

Iwi Management Plans should be given weight in the consenting process.

Existing Integrated Area Plans or Spatial Plans should be planning tools that have weight in the consenting process.

All applications should have a timeframe at least as long as that which applies to Resource Consents. However, given the extent of planning required for a SDPs, a longer timeframe before the consent

expires should sit at 5 years. This is requested as communities and environments change with time especially in rapidly expanding urban environments.

END

Auckland Council
Te Kaunihera o Tāmaki Makaurau

Memorandum

7 February 2020

To:	Anna Jennings, Principal Advisor – Urban Growth and Housing
Cc:	Glenn Boyd – Relationship Manager, Henderson-Massey, Waitakere Ranges and Whau Mary Binney – Senior Local Board Advisor, Whau Carol Stewart – Senior Policy Advisor, Local Board Services
Subject:	Whau Local Board feedback on the Urban Development Bill
From:	Kay Thomas, Whau Local Board Chair

Purpose

1. To provide feedback from the Whau Local Board to inform Auckland Council's submission on the Urban Development Bill.

Context

1. The Urban Development Bill is a complex piece of legislation which provides specific powers to enable Kāinga Ora-Homes and Communities (Kāinga Ora) to undertake urban development within a defined specified development project area and provides the ability to use powers of acquisition for all Kāinga Ora's development activities.
2. Auckland Council staff have identified some key themes for consideration to inform Auckland Council's submission on the Bill, and local boards have also been invited to provide feedback as part of that submission. Advice has been prepared and was reported to Auckland Council's Planning Committee meeting on 4 February 2020.
3. While the Planning Committee has resolved to maintain Auckland Council's support for Kāinga Ora to undertake urban development within specified development areas, the submission is anticipated to note areas of concern around the impact on decision making processes, duplication of process (particularly consenting), lack of strategic alignment, challenges for network planning, funding and infrastructure delivery, and unachievable timeframes.
4. The Whau Local Board agrees in principle with the 4 February 2020 resolutions of the Planning Committee in respect of this item and supports the direction given to staff, noting that the local board will not have the opportunity to see the final Auckland Council submission due to the extremely tight timeframes. The local board also has some additional concerns that it wishes to highlight.

Feedback from the Whau Local Board

5. The Whau Local Board supports in principle the proposal to enable Kāinga Ora to undertake urban development in certain areas.
6. Auckland's 21 local boards are landowners for local parks and reserves yet have effectively no opportunity to provide input into a decision which may impact on these reserves. This could potentially undermine the long-term plans to preserve green space, as well as improvement through better connections between neighbouring communities to each other, to local parks and open spaces and into town centres. Further, the Whau Local Board would argue that the bill does not appear to reflect or show any understanding of the value of open space to local communities – in particular the value of local parks, recreational reserves or sports parks.
7. The Whau Local Board has a concern that locally driven plans and strategies put in place to give guidance to Auckland Council and CCO project delivery decisions may be undermined or overlooked in this process, thereby negatively impacting on the long term cohesive planning within local communities

– for example, the Whau Open Space Network Plan, The Whau Neighbourhood Greenway Plan and Te Auaunga Awa Middle Catchment Strategy.

8. The Whau Local Board has a particular concern around the impacts on the infrastructure network, noting in particular the absence of requirement for Kāinga Ora developments to meet normal codes of practice or to work closely with Auckland Transport or Watercare. The board notes issues around health and safety, costs (where the Auckland Council Group takes over ongoing maintenance of infrastructure not built to its normal standard), and other network impacts (for example on traffic congestion and public transport service provision). The local board would argue, strongly, that the bill include requirements for Kāinga Ora to work with the Auckland Council Group to ensure that infrastructure provision in Kāinga Ora developments will be safe, adequate to meet the needs of growth, and will not impose a significant financial burden on the Auckland Council Group and ratepayers.

9. The Whau Local Board also notes the need for regional consistency around not only provision of assets and infrastructure but also service levels, noting that the bill creates potential for confusion and inconsistency around the management and maintenance of public assets which could create reputational risk for local boards.

10. The Whau Local Board has a particular concern around the potential cost to local boards if community infrastructure is built as a part of Kāinga Ora developments without regard for the ongoing maintenance costs which would subsequently be carried by local boards. This is essentially forcing local boards to pay for assets over which they had not had any decision-making role, and which may not have been fully taken account in Auckland Council's financial planning processes.

11. The Whau Local Board sees early and meaningful engagement with mana whenua as a key priority in urban development and environmental protection and would argue for this aspect of the bill to be strengthened. The local board sees this as essential to ensure kaitiakitanga and best practices around environmental management (for example around stormwater run-off and protection of local waterways).The local board also notes the lack of recognition in the bill of iwi who may have claims in respect of a particular area but are not the recognized mana whenua, or whose claims are yet to be settled.

12. The Whau Local Board has a concern around the general lack of regard for the impacts on water quality in the bill. Given the anticipated levels of growth in the Whau area, there needs to be checks and balances in place to ensure the water quality of the Whau River and all rivers and streams which empty into the Waitemata and Manukau Harbours are not degraded in any way by intensified development activities as well as the additional population growth associated with these developments.

13. The Whau Local Board has a concern around the lack of regard for the impacts of climate change in the bill. The local board would argue for the inclusion of requirements for best practice, sustainable, urban design within the bill. In particular, the local board would draw attention to the extreme weather events in recent years, including the serious flooding incident in New Lynn in March 2018 as evidence for the need to ensure that sustainability and the impacts of climate change are made a high priority in all new urban development projects.

14. Noting Auckland's relative size and the very high levels of population growth predicted in the Auckland region, and assuming that Auckland will likely be an area of particular focus for potential Kāinga Ora developments, The Whau Local Board is very concerned about the lack of regard in the bill for Auckland Council's governance model. Not only does the bill create confusion for unitary authorities with its specific provisions around local and regional authorities, but it also fails to recognize the role of local boards and the role of CCOs in the Auckland region. This is concerning for numerous reasons, not least of which is the very tight timeframes proposed in the bill for the various parts of the process around establishment of Special Development Project Areas.

15. The Whau Local Board believes that the provisions of the bill run counter to the principles of localism, as championed by Local Government New Zealand. Not only are opportunities for local board input

insufficient, but also opportunities for any kind of meaningful engagement with local communities and consideration of placemaking and collaborative approaches to urban design.

16. The Whau Local Board is conscious that there are some significant sites within the Whau local board area that may be identified as under-utilized and which could be potential candidates for development. The local board is also conscious of a high level of public interest, and concern, around the future of such sites and would urge that the bill take further account of the need to engage local communities, particularly where the Auckland Council Group have worked hard to ensure an adequate level of community engagement in respect of development and growth-related projects up to this point.

17. The Whau Local Board shares concerns noted in advice to the Planning Committee around duplication of processes and resources, particularly in consenting.

18. The Whau Local Board shares concerns noted in advice to the Planning Committee around lack of alignment to Auckland Council's strategic planning framework.

Next Steps

2. This feedback is expected to be appended to Auckland Council's submission, to be approved under delegation by the Chair and Deputy Chair of the Planning Committee and Independent Maori Statutory Board Member Tau Henare.

3. This feedback will be reported to the 26 February meeting of the Whau Local Board for retrospective ratification.

4. If staff have questions about any of the above feedback, please contact the Senior Local Board Advisor – mary.binney@aucklandcouncil.govt.nz.

Kay M Thomas

Date 7/2/2020

Kay Thomas
Chairperson, Whau Local Board

Attachment B – Clause by clause relief sought

Attachment B – Urban Development Bill Auckland Council Submission on specific clauses

Clause	Subject/Topic	Auckland Council Submission	Relief sought by Auckland Council/suggested amendments
3	Purpose of this Act	Council supports this clause but considers it could be strengthened by making it clearer that Kāinga Ora will be performing the urban development objectives and functions set out in the Kāinga Ora Act 2019.	Amend subclauses (2)(b) and (c) to read as follows (italics show additions): (b) provides powers for the acquisition, development and disposal of land used for the purpose of Kāinga Ora performing its urban development *objectives and* functions *of the Kāinga Ora Act 2019; and* (c) provides additional powers, rights and duties for the purpose of Kāinga Ora performing its urban development *objectives and* functions *of the Kāinga Ora Act 2019.*
4	Treaty of Waitangi	The intent of this section is supported but it should be strengthened.	Amend the section by removing the words 'take into account' and replace with 'give effect to'
5(1)(a)	Principles for specified development projects	Council is of the view that Kāinga Ora should be expected to demonstrate in its specified development project exemplar examples of sustainable urban development and follow best practice urban design and urban planning principles. There are several key matters that are required to achieve that outcome that are missing from the list in subclause (1)(a). In addition (1)(a)(i) fails to recognise the importance of integrated use of land and infrastructure. In subclause (1)(a)(ii) there is reference to 'community needs' rather than referring to the 4 well-beings that are included in the purpose of local government in the Local Government Act 2002 (LGA'02). Subclause (2) refers to the definition of 'sustainable management' in section 5(2) of the Resource Management Act 1991 (RMA), which does refer to the 4 well-beings. Section 12 of the Kāinga Ora Homes and Communities Act 2019 refers to the 4 well-beings. For consistency, 'community needs' could be replaced with a reference to the 4 well-beings. Subclause (1)(a)(iii) should also refer to 'sustainable' transport systems Subclause (1)(a)(iv) should be reworded to require 'quality open space and community facilities'	Reword subclause (1)(a)(i) to say; 'integrated and effective use of land and infrastructure' Include the following new points in subclause (1)(a): • 'well-designed built form and quality urban development' • 'a resilient environment that can adapt to future changes and helps address climate change challenges' • 'healthy, safe, accessible vibrant places and neighbourhoods • The construction of flexible new developments that respond to future changes in use, lifestyles and demography. Replace the term 'community needs' with a reference to the four well-beings contained in the LGA'02. Amend subclause (1)(2)(iii) to read: 'efficient, effective, *sustainable* and safe transport systems;' Amend subclause (1)(a)(iv) to read: 'access to *quality* open space *and community facilities* for public use and enjoyment'
9	Interpretation	The definition of 'public notice' refers, incorrectly, to the Resource Management Act 2001. The definition of 'community facility' is inconsistent with the definition of 'community facility' in section 197(2) of the LGA'02 (in relation to DCs). The definition of 'interest for the purpose of the definition of Māori entity, includes; (c) a customary or other interest in land that is recognised under an enactment'. The latter part of that subclause should be deleted as Māori customary interests do not derive from the Crown and are not reliant on statutory recognition. Retention of that subclause as worded dilutes and undermines legally defensible interest.	Change the date reference to 1991. Make the Bill's definition of 'community facility' consistent with that used in the LGA'02. Amend (c) by deleting the words 'that is recognised under an enactment'. Include the following definitions in clause 9:

Clause	Subject/Topic	Auckland Council Submission	Relief sought by Auckland Council/suggested amendments
		The Bill should include a broader definition of open space as the only definition included in the Bill relates to land reserved under the Reserves Act 1977. This excludes parks held by territorial authorities for open space purposes administered under the LGA'02. While the Bill makes explicit provision for how reserve land should be treated during the planning and development process, it is silent on how other forms of open space land should be treated. Not providing the same level of protections for park land could influence planning decisions, resulting in poor community outcomes. To address this matter a definition of a 'park' and a definition of 'open space' should be included in the Bill. Throughout the Bill there be: • Recognition of land held as open space by local authorities under the Local Government Act 2002 • Inclusion of appropriate safeguards, comparable to those for land held under the Reserves Act 1977. The definition of 'relevant territorial authority' contains some reference to the unique structure of Auckland Council in (b) to that definition by referring to Auckland Transport. It should also include reference to Watercare Services Ltd the other significant CCO infrastructure provider of Auckland Council. There are some key terms used in the Bill that could benefit from being defined.	*'Park means land held by territorial authority for open space purposes and administered under the Local Government Act 2002.* Open space means land held for open space purposes under the Reserves Act 1977 ('reserves') or land held for open space purposes under the Local Government Act 2002 ('park').' Amend the Bill to provide recognition that not all open space is subject to the Reserves Act and the role that such open space plays in providing for the well-being of the community. Amend the definition of 'relevant territorial authority' subclause (b) to also refer to Watercare Services Ltd, noting that by statute Watercare is referred to as the Auckland Water Organisation. Include definitions for: engagement; national interest; private land; public housing; affordable housing; market housing
10	Meaning of urban development, urban development project and specified development project	Council in its submission on the Kāinga Ora Bill (now the Kāinga Ora – Homes and Communities Act 2019) indicated that the focus of Kāinga Ora undertaking specified developments should be 'limited to situations where the market and current players cannot deliver and where Kāinga Ora can add value. International experience indicates this will create a focus on complex urban development projects such as contaminated brownfields or where there is a recognised market failure, or a desire to trial new methods/innovations; or a lack of feasibility for regeneration, despite clear public/strategic benefit.' Council still retains that position and is concerned that Kāinga Ora's resources and focus will be dissipated if it undertakes specified development projects in areas where there is market interest. Kāinga Ora should not be competing for land with private developers. It is recommended that subclause (4) be amended to be more specific about the purpose of a specified development project area.	Amend subclause (4) to read: 'In this Act, specified development project means an urban development project that is established *to provide and enable urban development where the market and current players cannot deliver despite clear public/strategic benefit* and that is established as a specified development project by an establishment order.'

Clause	Subject/Topic	Auckland Council Submission	Relief sought by Auckland Council/suggested amendments
14	Application of the Resource Management Act 1991 to project areas	Council supports the continued application of the Resource Management Act 1991 to project areas	Retain clause
20	Protected land	Council is supportive of the restrictions on development of protected land, including specific protections for land held as nature or scientific reserves under the Reserves Act 1977, and the maunga listed in section 10 of Nga Mana Whenua o Tamaki Makaurau Collective Redress Act 2014. However, included in the list of land absolutely protected from acquisition and development should be land that has been constituted as a regional park under the Local Government Act 2002. Such land is of strategic importance to a region and should not be compromised by development. Subclause (5) meaning of *post-settlement governance entity* only refers to a hapū authorities. For clarity it should also refer to iwi authorities.	Amend subclause (2) by including: 'land constituted as a regional park under the Local Government Act 2002' In subclause (5) amend meaning of post-settlement authority to say; (a) a hapū or *iwi* authority….
21	Former Māori Land	In some cases, there is an obligation for the Council to follow the process specified in ss40 and 41 of the Public Works Act 1981 (as modified by the Bill). It is not clear how this process will be triggered or what information and resource Kāinga Ora will provide to assist the Council in carrying out this function.	Add clarification around process and resourcing issues.
23	Protected land, former Māori land and right of first refusal land may be included in project area	This should only occur if the approval of the landowner is given.	Amend the clause to read: 'Sections 20 to 22 do not prevent the land referred to in those sections from being included in a project area *where approval from the landowner has been given*.'
25	Duty to co-operate	Subclause (1) should be expanded to include other relevant government agencies as co-operation from other government agencies such as Education, Health, NZTA etc will be required.	Add to subclause (1) the following '(d) other relevant government agencies'
27	Judicial review rights	While it is clear that it is not possible to both judicially review and appeal a decision on a development plan unless the applications are made together, the consequence of not doing so is not clear.	Clarify what the consequence will be if an appeal and judicial review application are not made concurrently.
28	Key Features of specified development projects	Subclause (3) is not supported in its current form – it states that the area or areas of land within the project area do not need to be contiguous. While it is acknowledged that a project area may require land that is not contiguous to be included to create a sustainable urban development, the more separated land areas are it will be more complex to provide and fund the infrastructure required and to create a sustainable, inclusive and thriving community. The way subclause (3) is worded means that various land areas separated by distance could be classed as one project area. It is recommended that the wording of that subclause be amended to ensure land areas within a project area are not separated by distance.	Amend subclause (3) to read; 'The area or areas of land within the project area do not need to be contiguous *but do need to be in close proximity to each other.'*
29	Project objectives	Council agrees project objectives must articulate key outcomes and outputs. However, this clause should be strengthened to include key outcomes and outputs on the mix of uses; typologies; housing and job yields, and timing of development expected in the project area. Otherwise the objectives for a project area will be too high level. On current wording this will	Amend subclause (2) by adding a new (c): *'(c) must provide sufficient detail on outcomes related to the mix of uses, mix of housing typologies and tenure; housing and job yields and timing of development that the project area is expected to achieve'*

Clause	Subject/Topic	Auckland Council Submission	Relief sought by Auckland Council/suggested amendments
		mean that the project will not be able to be monitored and measured to identify how successful it is. Council otherwise agrees that weighting may be provided for different project objectives to guide decision-making. Agree objectives may be specific about features or areas that are to be protected or excluded from urban development.	
30	Criteria for establishing specified development project	In principle there is support for statutory criteria for determining whether an urban development project should be established as a specified development project. However, this section requires both amendment and clarification. In subclause (c) the 'project area must contain only land that is in an urban area' or 'that the joint ministers consider is generally suitable for urban use'. This ability of the joint ministers to make a decision based not on any evidence but on what they 'consider' is of significant concern. Decisions about appropriate land for urbanisation are properly made in the participatory strategic planning processes of a region and district so that strategic issues of growth, infrastructure capacity and funding, staging, environmental, social, cultural and economic matters can be considered in an integrated way. Kāinga Ora should be operating in urban areas or on land identified as appropriate for future urban use through a statutory document such as regional policy statement implemented through a district plan. All growth councils are required under the NPS Urban Development Capacity 2016to provide for feasible development capacity over and above projected demand in their RMA plans. Having the joint minister make a call on what land is 'generally suitable for urban use' contradicts the outcomes being sought by those NPS provisions; and introduces decision-making without a robust evidence base as otherwise promoted in recent RMA amendments and the Productivity Commission's advice to government. Subclause (g) refers to 'engagement' - is this intended to also cover public consultation (public notice under clause 38) or only engagement with stakeholders (under clause 35)? Reference to 'likely effects on communities, Māori and other persons' – is different to the test used in the LGA'02 of 'significance' which is defined more broadly. Is this narrower test deliberate? Subclause (h) requires the joint ministers to be satisfied that there is overall support from relevant territorial authorities for the specified development project or that the project is in the national interest. Clarity is sought over what is meant by 'overall support' – does that include support with qualifications or conditions? In addition, clarity is required over what is 'the national interest' – it is considered that the proposed GPS on Housing and Urban Development should be the reference point for what is in the national interest if this aspect of the Bill is retained. (see issues in main body of submission). Subclause (h) also limits the ministers' consideration of local government support to relevant territorial authorities. Regional councils also have an interest in the potential establishment of	Amend subclause (c) by deleting (i) Clarify the intent and scope of subclause (g). In relation to subclause (h): • Clarify whether 'overall support' includes support subject to qualifications or conditions– and if it does how will the ministers take those qualifications/conditions into account. • Either delete (h)(ii) or clarify that the GPS on Housing and Urban Development will guide the joint ministers in determining what is the 'national interest' in the context of urban development.

Clause	Subject/Topic	Auckland Council Submission	Relief sought by Auckland Council/suggested amendments
		any specified development project. Regional councils are responsible for a range of infrastructure and funding matters that support urban development, in addition to their resource management and growth responsibilities. Kāinga Ora will need information on regional infrastructure. Amending this, and other clauses, to involve regional councils will enable better information sharing and decision-making.	
33	Kāinga Ora assesses project	The matters that Kāinga Ora must assess a project against do not include how the project implements the principles outlined in clause 5 of the Bill. For example, clause 5(1)(b) expressly requires recognition and provision for matters of national importance (s6 RMA) in the assessment of potential specified development projects. clause 34 identifies historic heritage, albeit in different statutory language, however no other s6 matters are identified.	Amend the clause to include an explicit requirement that Kāinga Ora must assess how a project implements the Principle for Specified Developments in clause 5.
34	Kāinga Ora identifies constraints and opportunities	The matters listed at clause 34 do not fully implement the principles in the Bill. Clause 5(1)(a) requires assessment of potential specified development projects to have regard to • integrated and effective land use • quality infrastructure and amenities supporting community needs • efficient effective and safe transport networks • access to open space • low emission environments The application of these factors is missing from the constraints and opportunities assessment Kāinga Ora is required to undertake. Clause 5(1)(b) expressly requires recognition and provision for matters of national importance (s6 RMA) and particular regard being had to other statutory matters (s7 RMA) in the assessment of potential specified development projects. The application of these factors is missing from the constraints and opportunities assessment Kāinga Ora is required to undertake (other than historic heritage whose inclusion is supported). Although Council accepts the Bill expedites urban development in particular circumstances, the promised safeguards of significant values need to be clearly included. For example, the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development is an RMA matter of national importance that clause 5(1)(b)(i) intends to uphold, but the presence of an outstanding natural feature or landscape does not appear be a relevant constraint. Achieving linkages between clause 5 principles and clause 34 evaluation may be achieved by amending subclause 34(2)(a) which as drafted requires Kāinga Ora only to identify the existing planning instruments that apply to the project area. No consideration of those instruments' contents is expressly required, notwithstanding clause 5(1)(b) Although the principles in this Bill identify the need to provide or enable access to open space the rest of the Bill is largely silent on the provision of community facilities and open space in	Amend subclause (1)(a) by adding the following: • 'any existing open space (i.e. including land not held under the Reserves Act 1977) • any existing community facilities • identification, at a high level, of the future demand for open space within the proposed project area • identification of the future community needs for open space and community facilities • identification of the potential impact of the project on the wider open space network and community facilities network outside of the project area.' • employment and economic development – both current state and future opportunities • existing bulk and local infrastructure capacity for the three waters and transport in the project area for additional growth • identification of the potential impact of the project on the wider three waters and transport networks outside of the project area' Amend subclause (2)(a) by amending and adding: '(a) the existing planning instruments including: (i) the section 6 Resource Management Act 1991 matters recognised and provided for and ~~iwi planning documents~~ that apply to the proposed project area; (ii) the section 7 Resource Management Act 1991 matters to which particular regard applies to the proposed project area; '(aa) iwi planning documents that apply to the proposed project area;'

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		specified development project areas. Community facilities and open space are vital to the creation of 'sustainable, inclusive and thriving communities'. Proper consideration must be given to these matters by Kāinga Ora so it is recommended that additions are included in subclause (1)(a). The clause is also silent on: • The identification of constraints and opportunities relating to employment and economic development in a project • The identification of constraints and opportunities relating to the existing capacity, for additional growth, of the bulk and local three waters and transport infrastructure in the project area and the potential impact of the development on the wider networks of this infrastructure. Kāinga Ora will be better able to assess potential specified development projects, projects' feasibility, and to support urban development that contributes to sustainable, inclusive and thriving communities if clause 34 requires consideration of a broader range of factors. Subclause (2) is supported but would be strengthened by including reference to climate change commitments already made by a Local Authority e.g. Auckland Council has already declared a climate emergency and has committed to a 50% reduction in emissions by 2030 and net zero emissions by 2050 to keep its commitment to keep within 1.5 degrees of warming. Some of the information that Kāinga Ora has to consider is held by the Council. It would be helpful to understand how it is intended that the information will be provided by the Council and whether it will be able to charge for it.	Amend subclause (2)(b) to read: 'any publicly available reports on climate change matters, prepared in accordance with the Climate Change Response Act 2002, *or any formal climate change resolutions made by a relevant Local Authority*, or New Zealand's obligations under an international treaty, that are relevant to the proposed project area.' Clarify process for provision of information held by Council to Kāinga Ora, and payment for the time and resource used to collate that information.
35	Kāinga Ora seeks engagement, etc, with Māori and key stakeholders	In subclause (3)(i) the term 'adjacent to' is used. This term is uncertain in terms of geographical proximity and may not be sufficiently extensive to trigger the need to engage with the Chief of Defence Force where reverse sensitivity may be an issue, for example within the aircraft noise boundaries of a military airport.	Consider using a different trigger than 'adjacent', perhaps linked to the effects generated by a defence area.
36	Early engagement may satisfy obligation to engage	This clause is not supported. Very early engagement with local authorities and mana whenua should be encouraged right at the beginning of any idea about a specified development project. However, at that stage the detail and information might be quite vague. This clause could have the quite opposite effect of encouraging local authorities and mana whenua to be less keen to participate in 'engagement' at an early stage in the process as this clause could be used to limit or avoid further engagement by Kāinga Ora when more detail is received.	Delete clause 36

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38	Kāinga Ora gives public notice of proposed key features and invites feedback	The information that is required to be provided should also include a link to the project's concept plan so that the public can understand the spatial implications of what is being proposed.	Amend clause to include requirement for a link to the project's concept plan on Kāinga Ora's website.
39	Changes to proposed key features	Subclause (1) provides that clause 39 applies if changes are made 'during a project assessment'. Clause 38 says that public notice is 'as part of a project assessment'. It is not clear if clause 39 also applies if changes are made in response to public feedback in response to the public notice - it would make sense for it to, but this should be clarified.	Clarify whether changes can be made on the basis of public feedback provided in response to the public notice.
43	Territorial authorities invited to indicate support	The minimum timeframe (10 working days) within which the Council can be required to provide a written indication of support (or not) for a specified development project does not have sufficient regard for the way in which councils operate at a governance level. It is likely that councillors will want to have time to assess and comment on proposed development projects in a formal way. This would require reports to be prepared and a meeting of the Council or a relevant committee to occur. Neither clause 43 or 44 provide for a territorial authority to ask questions or request further information before responding. This could be implied, but it would be better for it to be explicit.	Implement a longer minimum period within which a response from Council is required (a minimum of 20 working days may be appropriate). Provide an explicit ability for territorial authorities to ask questions and seek further information to assist in providing an informed response.
45	Territorial authority not required to consult before responding	Query how this relates to section 78 of the LGA'02 - which is not a requirement to consult, but a requirement to consider views and preferences of people affected or interested in a decision before making the decision. On its face, s 78 would still apply to a decision on a response to Kāinga Ora under clause 44, but in order to comply with s 78 the council may need to consult in order to ascertain the relevant views. It could be that the council would be able to rely on the draft assessment report for knowing these views, as long as the draft report includes public feedback received in response to the public notice under clause 38. It would be good to get this clarified.	Provide clarification as to whether the Council is required to comply with s78 of the LGA'02 when preparing a response to an invitation made under cl44 of the Bill.
50	Orders in Council establishing specified development projects	Subclause (3) indicates that the order 'may incorporate by reference a map, plan or similar document'. It is recommended that this should be mandatory in order to give real clarity over the boundaries of the specified development project area.	Amend subclause (3) by removing the word 'may' and replacing it with 'must'.
55	Amendments to key features of specified development projects	Subclause (3) provides that the ministers may accept the recommendation in a report only if…the engagement undertaken on the amendment was appropriate. It is not clear if this is intended to also cover public consultation (e.g. public notice under clause 38) or only engagement with stakeholders (under clause 35)?	Clarify whether the engagement the ministers must assess covers both consultation and engagement or only engagement under clause 35.
59	Functions of Kāinga Ora in preparing, amending or reviewing development plan	Subclause (b)(iv) indicates that Kāinga Ora will have the function 'to develop (or provide for the development of) infrastructure and its integration with landuse.' It is unclear whether Kāinga Ora is responsible for the full development of all infrastructure within the development plan area or only the infrastructure Kāinga Ora perceive as needed for its development. Subclause (c) would be improved by including reference to rules about coastal protection and to the discharge of contaminants	Clarify the scope of Kāinga Ora's responsibility for developing infrastructure, in particular in regards to existing infrastructure. Amend subclause(c) by adding

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			'(iv) about any actual or potential effects of activities on coastal protection *(v) to control discharges of contaminants'*
60	Relevance of certain national instruments	The requirement that a development plan must not be inconsistent with certain national instruments is supported. A draft development plan should not be inconsistent with any applicable national planning standard, to: • assist with the integrity of resource management planning instruments following the conclusion of specified development project • streamline the preparation of a draft development plan • ensure principles of the Bill at clause (2) are applied • enable easier electronic access to information through compatible data sets Due to the significant impact climate change will have on any urban development it is recommended that the development plan must not be inconsistent with the Climate Change (Zero Carbon) Act 2019.	Deleting clause 60(a)(iv) and replacing it with new clause 60(a)(iv): 'the applicable provisions of national planning' Amend this clause by adding; '(c) the Climate Change (Zero Carbon) Act 2019'
61	Development Plan required for every specified development project	No time frame is specified for the preparation of a draft development plan. The transitional period will create additional work for Kāinga Ora and territorial authorities, as well as additional complexity for the public. An indeterminate transitional period will create uncertainty for developers whose resource consent applications may be declined, or conditions changed through the additional decision-making of Kāinga Ora to that of the consent authority. Impacts during the transitional period will lengthen and complicate the following functions, with consequential costs: • RMA plan-making; • resource consent decision-making; • compliance and monitoring • record-keeping including but not limited to production of Land Information Memoranda. Given that the Bill's purpose is to streamline processes to expedite urban development, clause 61 should specify that a draft development plan is notified within a maximum timeframe. Insert subclause 61(1A) requiring public notice of a draft development plan in accordance with clause 76 within XYZ days of the establishment date of a specified development project.	Insert a new subclause 61(1A) requiring public notice of a draft development plan in accordance with clause 76 within a year of the establishment date of a specified development project.
62	Contents of draft development plan	The requirement of the draft development plan in subclause (2)(b) to set out what infrastructure will be needed and where it will be located does not reflect that in a brownfields area there is existing infrastructure; and that infrastructure will be part of a wider network plan across a district. The draft development should include an assessment of the impact of the	Amend subclause (2)(b) to; • include the impact on existing infrastructure and its capacity • address the need for transparency over both capital cost and operating costs of any new infrastructure proposed in a development plan.

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		proposed development on the existing infrastructure, and any capacity upgrades to existing infrastructure that are required. In addition, where the draft development plan identifies the need for new infrastructure it should also identify the upfront capital expenditure required and ongoing operating costs of that infrastructure. This will ensure transparency to any territorial authority of contingent liabilities relating to infrastructure assets that may be transferred to that authority.	
63	Further contents of development plans: infrastructure	Clause (2) provides for Kāinga Ora to propose changes to bylaws. Some bylaws provide critical protections and safeguards for the network. Kāinga Ora should not be able to override any bylaw provisions that protects network infrastructure or protects public health and safety.	Amend subclause (2) to add that Kāinga Ora may not propose any bylaw change that will affect the ability of infrastructure providers to protect and safeguard the network or protect public health and safety.
66	Provisions that modify planning instruments	This power should be used only by Kāinga Ora where the relevant planning instruments are out of date or due for a review. Both regional and district planning instruments (or combined unitary planning instruments) have been subject to formal community consultation, hearings and appeals. In the case of the Auckland Unitary Plan it has only recently become operative and represents a significant investment by key stakeholders (including HNZC and HLC) and the communities of Auckland. One of the key benefits of that process was providing certainty and consistency across the Auckland region by providing one sets of planning rules. This clause gives Kāinga Ora the power to dissipate all that effort by coming up with new rules and provisions that may have no relationship to the AUP rules and provisions for surrounding areas. This will cause confusion and inconsistencies for applicants and communities. Subclause (2) enables Kāinga Ora to override, add to or suspend any provision of a regional policy statement. This aspect of that subclause is not supported as a regional policy statement sets out the strategic planning approach which is required to ensure a region and its resources are managed in a sustainable way. Making changes to provisions within it or overriding them for a smaller part of a region could have unintended consequences for the rest of a region. Subclause (2)(d) requires clarification. As worded, it implies 'all necessary infrastructure for a development project, both within and outside the project area' is a permitted activity. Any infrastructure provision should have some checks to ensure maintenance of quality environmental outcomes and best practice construction.	Amend subclause (1) to read; '*Where the relevant regional plan, district plan(s) or unitary plan has been operative for more than five years*, a development plan may incorporate material by reference….' Amend subclause (2) by removing all references to 'regional policy statement' and 'regional policy statements'. Clarify subclause(2)(d) to ensure 'necessary infrastructure' is still subject to appropriate best practice environmental and construction controls.
68	Existing designations for infrastructure that is not nationally significant or defence area	This clause's provision of broad powers for Kāinga Ora to override existing designations of infrastructure providers is of significant concern. Designations are critical to the operations of water and wastewater and are used for route protection and asset protection of major infrastructure. Significant resources from infrastructure providers, mana whenua, the community and local authorities have been invested to obtain existing designations. Kāinga Ora should not have the power to override designations for critical public infrastructure as that could lead to compromised infrastructure in the wider network.	Amend the clause to enable Kāinga Ora to only request modifications to existing designations.

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		This clause also includes a requirement for altered or removed designations to be replaced with a designation that 'enables the purpose of the designation to be achieved'. However, we consider that the impacted requiring authority is best placed to judge how the purpose of the designation is to be achieved. Furthermore, the alteration of a designation has the potential to generate significant additional costs for the requiring authority through an altered design or result in significant lost investment for example in a designated project that is nearing construction phase. Therefore, we suggest that Kāinga Ora should be able to request a modification to an existing designation and that those modifications would be best made collaboratively with Kāinga Ora and the relevant requiring authority. Subclause (2)(d) also requires further amendment. The defined project area is central to the assessment and approval of a specified development project, the use of powers by Kāinga Ora, and the preparation and decision-making on a development plan. Public and stakeholder engagement in the statutory processes relate to the defined project area. Definition of a project area and engagement on that basis become a nullity if powers may be exercised outside it. Council notes that the application of Part 3 of Schedule 1 of the Resource Management Act 1991, with necessary modifications, would trigger an earlier notification process of the material intended to be incorporated by reference. This would lengthen Kāinga Ora's plan-making process.	Amend subclause (2)(d) to remove the phrase 'both within and outside the project area'.
69	Relevant considerations	Subclause (1)(b) refers to 'regional land transport plans made under the Local Government Act 2002 and regional public transport plans made under the Land Transport Management Act 2003'. These references are incorrect. The RLTP is not made under the LGA 02 - the reference should be to the Land Transport Management Act 2003, and in the case of Auckland Council to the Local Government (Auckland Council) Act 2009. Subclause (1) (c) refers to 'the long-term plans of relevant local authorities made under the Local Government Act 2002'. This would preclude Kāinga Ora from having regard to the Auckland Plan which was required by the Local Government (Auckland Council) Act 2009. Reference to that Act needs to be included in this subclause. Subclause (1) should also reflect that there are other strategic documents such as open space network plans and community facilities network plans that should be considered. Subclause (1) (e) needs to include reference to hapū planning documents as some hapū have different planning documents to iwi authorities. It should also be amended to remove the reference to the extent those documents have on resource management issues within the project area. This is because some mana whenua planning documents may also address aspirations which go beyond RMA issues, such as economic or social development, and which may be relevant to the project's development plan.	Correct the cross-referencing. Include reference to the Local Government (Auckland Council) Act 2009. Include requirement that regard should be had to any community facilities network plan and open space network plan that a relevant territorial authority has consulted on with the community. Amend subclause (1)(e) by adding the words 'or hapū' after the words 'an iwi authority' and by deleting the words 'to the extent that it has a bearing on the resource management issues within a project area.'

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70	Consultation	The requirement of Kāinga Ora to consult when preparing the draft development plan is strongly supported. However, the clause could be strengthened by requiring Kāinga Ora to also consult with landowners and occupiers of land outside of the project area but immediately adjacent to it. This is because the contents of the draft development plan may impact on how they use their land.	Retain section but amend subclause (1)(a) by adding the words in italics; 'owners and occupiers of land within *and immediately adjacent* to the project area; and'
72	Evaluation Report: general matters	The requirement that Kāinga Ora must prepare an evaluation report and the matters the report must consider are strongly supported	Retain section
73	Evaluation Report: environmental matters	The requirement that Kāinga Ora must prepare an evaluation report on environmental matters is strongly supported but the clause needs to be strengthened by explicit reference to other matters related to the environment in s 6 of the RMA (not just historic heritage) and to how the draft development plan provides for the impact of climate change and a low emissions environment. In addition, the report should also indicate what cultural value assessments have been taken into account – an explicit reference to this is required because archaeological or heritage assessments won't necessarily reflect cultural value assessments which must be completed by mana whenua or a delegated representative.	Include requirements that the evaluation report must include; • how the draft development plan addresses matters of national significance set out in Sec 6 of the RMA; and • how the draft development plan addresses the potential impacts of climate change and enables a low emissions urban environment; and • how mana whenua cultural value or impact assessments have been considered in the development plan.'
74	Infrastructure statement	The requirement that Kāinga Ora must prepare an infrastructure statement is strongly supported but the section requires amendment. Firstly, subclause (a) should include the reasons why the proposed infrastructure is required. Secondly, rather than 'describing the effect of the proposed infrastructure on existing infrastructure…(subclause(2)(b) Kāinga Ora should be required to 'assess the effect'. Thirdly, there is no reference to how the statement relates to a local authority's infrastructure strategy as required under s 101B of the LGA'02. It is likely that there would be some crossover between a local authority's infrastructure strategy, and an infrastructure statement under clause 74. The clause should also be clear that the infrastructure statement does not only apply to water, wastewater, stormwater and transport infrastructure but also to community infrastructure including community facilities, open space, schools, pre-school education facilities and medical facilities. All these facilities are planned and delivered as part of networks across a district and region. Failure to identify the impact of any proposal in a development plan on these wider networks would risk either over or under provision of services within the project area and region. This could have long-term social or financial costs for residents and ratepayers. The infrastructure statement should describe the effect of any proposed changes (in the development plan) to provision or service levels on these community infrastructure networks, both within and outside the project area. The Bill also does not include any requirement that infrastructure providers review and confirm that the assessment is consistent with their assessment of the network. Given that infrastructure providers are the most knowledgeable about the current state and future plans for the infrastructure, this appears to be a very significant omission.	Amend subclause (1) to read: 'describes the infrastructure proposed to be constructed in the project area *and the reasons for that infrastructure*; and' Amend subclause(2)(b) by removing the word 'describes' and replacing it with 'assesses' Include a requirement for Kāinga Ora to have regard to existing Council infrastructure strategy and comment on the degree of consistency between it and their proposal. Amend this clause to require a specific 'community infrastructure statement' that describes the effect of any proposed changes (in the development plan) to provision or service levels on community infrastructure networks (community facilities, open space, schools, pre-school education facilities and medical facilities), both within and outside the project area. Amend the section to require that Kāinga Ora submit the statement to infrastructure providers for their review and confirmation of the information. Sufficient time must be given to undertake this review.

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75	Preconditions to be met before draft development plan notified	Council is supportive of the requirement for Kāinga Ora to seek the approval of the Minister of Conservation for any conditions applying to the setting apart, future classification or vesting of a specified reserve or proposed reserve. However, while Council appreciates the role of the minister extends only to reserves, and not all types of open space, this will create inconsistent treatment between open space administered under the Reserves Act 1977 and open space administered under the Local Government Act 2002. This will mean that while both types of land offer the same level of public amenity, land administered under the Local Government Act 2002 will be afforded a lower level of consideration/protection during the development process. This may create incentives to develop or reconfigure non-Reserves Act open space. To address this concern, it is recommended that the Bill recognise the open space land administered under the Local Government Act 2002 and include appropriate and comparable safeguards. Subclause (8) (d) requires the Minister of Conservation to be satisfied that the loss of any scenic values of any scenic reserve has been appropriately mitigated (as set out in (d) (i) and (d) (ii)). These mitigation requirements should apply no matter what type of reserve is affected.	Amend this clause to recognise the open space land administered under the Local Government Act 2002 and include appropriate and comparable safeguards to that afforded to land under the Reserves Act 1977. Amend subclause (8)(d) to refer to any reserve.
76	Public Notice	Kāinga Ora should be required to notify in writing/email any person or entity it consulted with under the requirements of clause 70 because as they have already participated in the process and should be advised specifically when the draft development plan is ready for submissions. Including a requirement that the public notice should include a summary of the proposal in subclause (2) would make it easier for the general public to understand the outcomes being sought. Subclause (2)(c) refers to 'working days' – does that have the same meaning as in the RMA?	Amend this clause by adding a new subclause: 'Kāinga Ora must give written notice to any person or entity consulted on under clause 70 of this Bill' Amend subclause (2) to require the public notice to include a summary of the proposal. Clarify definition of 'working days'.
77	Public Submissions	Subclause (3) indicates that Kāinga Ora may accept any late submission while clause 15 in Schedule 3 says the chair of the IHP must decide for each late submission whether to waive the requirement that submissions must be provided before the closing date. If the IHP chair must make the decision, is clause 77(3) required?	Delete subclause (3) or amend it to say; 'Where a late submission is lodged Kāinga Ora may recommend to the IHP whether it should accept or reject the late submission'.
78	Kāinga Ora must consider, and make recommendations on, submissions	Subclause (1)(a) provides that Kāinga Ora must 'consider all the submissions received under that section'. It is not clear what 'that section' is referring to.	Clarify the reference to 'that section'.
80	Role of IHP	Subclause (2) requires Kāinga Ora to provide certain information to the IHP. However, there is no timeframe within which that information must be provided. How long Kāinga Ora takes to provide that information will impact on the IHP's ability to meet the requirement of s 82 Subclause (1).	Include in subclause (2) a timeframe within which Kāinga Ora must provide the information.
82	IHP recommendations	The IHP should be required to provide reasons for its recommendations.	Amend subclause (2)(b) to state; 'any recommendations *and the reasons* for amending that plan.'
84	Minister's determination on	In principle Council is concerned that after a formal submission process and hearing by an IHP (led by a current or retired Environment Court judge) it would appear that the minister can make a decision on the draft development plan that ignores the recommended changes of the	Amend this clause to make the Kāinga Ora Board the entity who determines whether the recommendations of the IHP are accepted or rejected. Provide appeal rights to

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	draft development plan	IHP. Council would rather see a similar streamlined process to what occurred under the Auckland Unitary Plan – i.e. Auckland Council received the recommendations of the IHP; and where the Council chose to reject the recommendations a right of appeal existed to the Environment Court. Where the Council accepted the recommendations of the IHP no right of appeal to the Environment Court existed. It is recommended that the Kāinga Ora Board (rather than the minister) should be responsible for either accepting or rejecting the recommendations of the IHP. If the Board rejects a recommendation to change the draft development plan, then a right of appeal to the Environment Court should exist If that recommendation is not accepted than clarity is required about what happens after the IHP provides its recommendations back to the minister under subclause (5). If the IHP declines to make any changes to its original recommendations as provided for in subclause (5)(b)(ii) how does that impact on the minister's final decision? Does the minister have to accept the IHP final decision or if not, what criteria will the minister use?	the Environment Court where the Kāinga Ora Board rejects a recommendation of the IHP. If the minister is to remain the decision maker, then clarity is required about what happens after the IHP provides its recommendations back to the minister under subclause (5). If the IHP declines to make any changes to its original recommendations as provided for in subclause (5)(b)(ii) then the minister should accept those original recommendations.
86	Approval and notification of development plan as operative	Subclause (5) requires Kāinga Ora to notify the operative development plan in the Gazette. Kāinga Ora should be required to also notify each submitter to the development plan; and the relevant Local Authorities. The status of a development plan that has an operative date specified in the Gazette, but which has subsequently been appealed is not clear. It would be helpful to make it clear that a plan cannot be considered to be operative until any appeal is finally disposed of.	Amend subclause (5) to require specific notification to every submitter to the draft development plan, and to relevant Local Authorities. Include an explicit provision to the effect that a plan is not operative until any appeal is finally resolved.
88	Appeal rights in relation to development plan	As indicated under clause 84, the Council is recommending that the Bill adopts the streamlined decision and appeal process that was provided for the Auckland Unitary Plan process. If that is accepted, then this clause will need to be reworded.	Amend s 88 to reflect streamlined decision and appeal processes.
89	Effect of development plan becoming operative	As explained in more detail in the main body of this submission the council is opposed to Kāinga Ora automatically becoming the consent authority for consent applications to the territorial authority for the project area. Such a move will have resourcing, administrative, information, duplication, consistency and certainty implications and unintended consequences	Amend this cause by deleting subclause (a)
91	When development plan and planning instruments may be inconsistent	Council is concerned that it is only historic heritage provisions that cannot be overridden, added to or suspended in subclause (2)(a). There are other 6 RMA matters such as Outstanding Natural Landscapes and Features; Sites of significance to Mana Whenua Significant Ecological areas etc which should also be included in this subclause.	Amend subclause(2)(a) to include other Sec 6 RMA matters.
92	Status and relevance of iwi planning documents	Subclause (3) is not supported. The RMA requires Local Authorities and Iwi to enter into Mana Whakahono a Rohe agreements. Kāinga Ora should be required to 'have regard to' or 'give effect to' these agreements	Amend subclause (3) to read; 'Kāinga Ora must have regard to a Mana Whakahono a Rohe.'
94	Amendment of development plan by Kāinga Ora	Council supports the ability of Kāinga Ora to make changes to its development plan without following the prescribed public process to maintain consistency with changes made to planning instruments already applicable in the project area, or new national direction. Clarification is required regarding the relationship between the development plan and any new planning instrument that would otherwise apply. The ten yearly review period for RMA planning instruments and this Bill's development plans will seldom, if ever, neatly coincide. It is unclear whether a legacy planning instrument would continue to apply in a project area.	Retain clause 94(2)(a). Clarify the application of planning instruments where a new planning instrument is made operative in a project area

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96	Process for requesting private change to development plan	Subclause (2) indicates that the provisions of Part 2 of Schedule 1 to the RMA 1991 'apply with necessary modifications and as relevant to a request made under section 95.' The Bill is silent on what those modifications are and how they might apply to the evaluation and decision-making process under Schedule 1 of the RMA.	Clarify what modifications are envisaged to Part 2 of the Schedule 1 process under the RMA 1991.
98	Continuing application of planning instruments and the role of local authorities as consent authorities	Council supports the continued application of planning instruments, and the role of local authorities as consent authorities during the transitional period. These factors will provide continuity and certainty for a range of stakeholders, including the development community. Clarification is sought regarding this, and clause 138(3). It is inferred that territorial authorities would continue to process notices of requirement for designations within a project area during the transitional period, but it is not explicit. Council supports the continued role of territorial authorities in this respect and notes its explicit provision would be aligned with other proposed transitional arrangements. A modified application of section 175 Resource Management Act 1991 wold enable newly effective designations to be included within a development plan (where they do not undermine achievement of an SDP's project objectives).	Retain clause 98. Clarify that territorial authorities retain their functions under Part 8 Resource Management Act 1991 during the transitional period.
99	Local Authorities must include map of project area, etc, in planning instruments.	While compliance with this clause may appear simple there are many operational, legal, technical and financial issues flowing from the requirement to include a map of the project area within local authorities' electronic planning instruments. Implications affect local authorities, requiring authorities, developers and private citizens. Auckland Council has extensive experience in this area having developed a combined electronic plan and been part of a housing accord. Special Housing Areas were included in Auckland Council's proposed Unitary Plan, and continue to apply in the now operative plan, after the disestablishment of the accord and application of HASHA Act. Due to the streamlined nature of that process by information available at that time (from both the developer and the infrastructure providers) was insufficient and Auckland Council continues to carry costs and operational issues. It is essential that Kāinga Ora and local authorities work collaboratively in the provision and sharing of electronic information so that each agency can efficiently and effectively carry out its statutory functions. Spatial information provided by Kāinga Ora must be in the appropriate electronic format and with the necessary performance capability for inclusion in an electronic planning instrument.	This clause should be amended to require Kāinga Ora and the relevant Territorial Authority to agree on how a map of the project area can best be provided for in relevant planning instruments. Kāinga Ora should be required to fund the costs of changing planning instruments.
103	Power to decline plan change in project area by notice	The ability for Kāinga Ora to decline a plan change during the transitional period is strongly opposed. This power would obstruct the well considered strategic plans, preferences and resources of applicants, mana whenua, communities, local authorities, and submitters for undefined periods of time. It would also override the evaluative and recommendation role of IHP as the overriding of plan provisions should be dealt with through the development plan process. Kāinga Ora's interests could be protected by suspending the application of the plan change until a decision is made on the development plan. In addition, this power should not be available to Kāinga Ora where it is a submitter to an existing plan change already progressing through the standard RMA process.	Amend this clause so that Kāinga Ora can only request that any decisions on the plan change are suspended until after a decision is made on the development plan. Remove the ability of Kāinga Ora to use these powers if it is already a submitter to a current plan change process already underway.

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		In the event that this clause is retained Council seeks that a new power is made available to local authorities whose plan changes are declined in part. Local authorities will need a decision-making power akin to clause 20A, First Schedule, Resource Management Act 1991. This power would enable the council to make consequential amendments to its plan change that would arise from the partial decline. Without such a power, the remaining plan change components could be rendered incomplete or incapable of being implemented without a second plan change. Having to undertake a second 'tidying-up' plan change would be time-consuming and wasteful of submitters', developers' and councils' resources.	Introduce a power for local authorities akin to clause 20A, First Schedule, Resource Management Act 1991 to make consequential amendments to its plan change following a plan change's partial decline.
104	Appeal rights in relation to exercise of section 103 power	It seems likely that submissions made on a proposed plan change will focus on the merits of the plan change rather than jurisdictional matters. The limitation provided by a combination of Clauses 104 (1) and (2) restricts submitters to appeals on questions of law on matters raised in their submission. This could quite possibly have the effect of preventing submitters from appealing even where there has been an error of law, if it was not a matter raised in their submission.	Reconsider whether the restriction contained in s104(2) is necessary given that any appeal is limited to question of law.
106	Power to decline applications or impose or modify conditions on grants	The reasons set out in subclause (2) on why Kāinga Ora may make a decision to decline etc a resource consent application is vague – 'reasonably necessary' – it gives no clarity or certainty to applicants. It should be reworded.	Amend subclause (2) to read; 'However, Kāinga Ora may only make and give notice of a decision under subsection (1) *if the granting of consent or changing of conditions would adversely impact on the objectives of the project.*'
107	Right of objection in relation to exercise of section 106 power	Presumably where a decision is made by Kāinga Ora under cl106, it will be Kāinga Ora that appoints a hearing commissioner to hear any objection. Given that the original application will have been made to the Council there might be uncertainty as to who is responsible for appointing the hearings commissioner and running the hearing.	Clarify that the hearings commissioner is to be appointed by Kāinga Ora.
109	Kāinga Ora and territorial authorities must assist persons seeking to determine who does what	It is not clear what happens if Kāinga Ora and a territorial authority disagree on the interpretation of the Act as to who does what.	Provide clarification as to what should occur if the parties are unable to agree on roles and responsibilities.
110	Information, advice and record-keeping obligations from establishment	Clarity is ought about whether these provisions only apply to iwi or hapū groups that have settled under the Treaty Settlement Act or have iwi participation legislation; or would mana whenua who have not yet settled but are mandated groups recognised by local authorities be also included.	Provide clarity on how this clause affects/applies to mana whenua who have not yet settled but are recognised by local authorities.
112	Entity must respond to request under section 111	In a situation where the provision of information requested by Kāinga Ora will involve substantial time and resource expenditure by the Council it would be reasonable for provision to be made to enable the Council to recover its reasonable costs. If this cannot occur, then it is possible that the result may be a refusal to provide information which would be counterproductive. The clause could be modified to enable an agreement to be reached on costs to avoid a refusal merely because the Council does not have the resource to meet unbudgeted expenditure.	Modify the clause to enable charging by agreement between the parties which is the same or similar to; Subsection 13(3) of LGOIMA: *any charge fixed shall be reasonable, and regard may be had to the cost of the labour and materials involved in making the information available and to any costs incurred pursuant to a request of the applicant to make the information available urgently.*

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115	What happens if entity does not respond within required time frame	Re requests for information under cl 111, cl 115 provides that if an entity does not respond within the 30 working day timeframe Kāinga Ora may commission a suitably qualified person to supply the information. There is currently no ability to request an extension of the 30 day deadline. This should be included. Also, query how a person external to council would be able to supply information that council holds?	Provide a mechanism for extending timeframe within which information must be provided. Consider practicality of an external party being able to obtain information held by an entity.
116	Role of Kāinga Ora in relation to resource consent applications	Council's substantive submission outlines the significant concerns that exist over Kāinga Ora automatically becoming the Resource Consent Authority for a project area, including duplication of effort, confusion for applicants, data collection challenges, resourcing impacts. If this mandatory role is to occur then this clause must be much clearer over how matters such as how applications that involve both regional and district consents are to be managed; who undertakes monitoring of existing consents in a project area and who pays any Māori entity to undertake monitoring and enforcement.	Remove mandatory requirement that Kāinga Ora becomes the consent authority under the RMA for all matters that a territorial authority would normally be the consent authority for. Replace with provisions similar to what is being proposed as transitional processes (refer clause 105)
118	Certain obligations to post-settlement governance entities continue under this Act	The wording in subclause (1) is confusing and could create doubt as to whether Kāinga Ora is subject to the obligation. It could be made less confusing by replacing 'that consent authority' with 'it'. Clarity is also sought about whether this clause applies to mana whenua groups, who have an interest in the project area and are recognised by local authorities, but have not yet settled	Replace 'that consent authority' with 'it' in cl118(1). Provide clarity on how this clause affects/applies to mana whenua who have not yet settled but are recognised by local authorities.
126	Time limits for giving notice of decisions	The ability to achieve the 10 working day timeframe in this section will be influenced by the nature and complexity of the development plan. For restricted discretionary activities which can potentially be complex, 10 working days could be challenging and lead to inadequate assessment of the matters to be considered.	Timeframes should remain consistent with those of the RMA.
129	Hearings	The wording in subclause (2) is confusing – if a district plan or development does not specifically exclude a controlled activity or restricted discretionary activity from being notified ; and it is, the a hearing should occur (unless there are no submissions and the applicant agrees to any conditions that are to be imposed).	Clarify what the purpose of this subclause is.
130	Alternate appointments to hear and determine consent applications	In principle this clause is supported, however, clarity is sought on: • What is meant by 'a right', and who determines whether a Māori entity has it or not? • Whether the appointee should must have an understanding of tikanga Māori.	Provide clarity on these matters so as to avoid confusion and inconsistencies
137	Designations	This clause enables Kāinga Ora to act as a requiring authority for the construction of roads and railway lines outside of a project area so long as: • It is intended to connect or support the development of a SDPA • Is necessary for, or related to, achieving the project objectives for a SDPA • Is work in which Kāinga Ora has a significant contractual relationship with the developer, operator or service provider; and has a direct financial interest The clause also enables Kāinga Ora to act as a requiring authority for the distribution of water for supply, including irrigation; or for the operation of a drainage or sewer system. There is no requirement that Kāinga Ora must meet the codes of practice for the design and construction of water supply, wastewater or stormwater within the territorial authority's district, nor that they should consult with the relevant infrastructure operator to ensure what Kāinga Ora is proposing will not have negative impacts on the wider network. If Kāinga Ora does not follow	Amend this clause to include a requirement that new water, wastewater and stormwater facilities and connections provided by Kāinga Ora must meet the codes of practice that exist for those services within the relevant territorial authorities district; and get agreement from the current service providers that health and safety of their wider networks will not be compromised by what Kāinga Ora intends to do.

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		those existing codes of practice, then there is high potential for significant health and safety issues arising e.g. water quality compromised. It is also unclear what happens to the designation when the assets are transferred to the infrastructure providers. Does the designation also transfer to the infrastructure provider? Clarity is also required on the process for resolving misalignment between Kāinga Ora and a Territorial Authority should the former determine that a major piece of infrastructure, not previously supported by the Authority, is required outside its development area. This gives rise to a number of potential issues, including: • Who would fund and build the infrastructure? • What impact could such an unplanned major investment have on the ability of Territorial Authorities to deliver on commitments made in their existing Infrastructure strategies and asset plans? • Is there a contradiction between this clause and the prohibition on Kāinga Ora exercising powers in relation to public transport planning and regulation (s150)? Council does not support Kāinga Ora having requiring authority status for the distribution of water for irrigation. Irrigation relates to rural activities. Enabling rural activities through the provision of irrigation is beyond the scope of the Urban Development Bill.	Include clarification on the status of the designation when the assets are transferred to the infrastructure provider. Include a transparent process for resolving misalignments between Kāinga Ora and a Territorial Authority on the matters outlined. Clarify for what purpose would Kāinga Ora be building a rail line so as to remove inconsistency with sec 150 of the Bill. Amend 137(4)(a)(i) to delete 'including irrigation'
139	Further modification to Part 8 of Resource Management Act 1991	This clause appears to undermine the requirement for enabling existing designations to be achieved. Given the powers provided in s68, it is difficult to foresee a situation where Kāinga Ora would designate over the top of an existing designation in a way that approval under s176 of the RMA could not be obtained (as any clashing designations would have been altered). Therefore, it is suggested that the powers conferred in s139 are removed.	Delete this section.
140	Approval of Kāinga Ora to lodge notice of requirement for new designations	The approval and lodgement steps at s140(2) are unclear. Is the authority seeking approval to lodge, or seeking approval for the notice of requirement? Does Part 8 RMA apply in whole or in part? What is the effect of the lodged notice, is it equivalent to s178 RMA? Designations would be undermined if third parties can use land in a manner that would thwart their purpose. Current proposal has risks for requiring authorities, local authorities and private landowners.	Clarification is required – currently the equivalent provisions to Part 8 RMA are only partially included in the Bill where the requiring authority is a local authority or a Requiring Authority other than Kāinga Ora. This means the process is unclear and could be problematic.
142	Kāinga Ora may request that reserve status or conservation interest may be revoked	Clarity is sought over whether subclauses (3) and (4) also apply to Mana whenua who have an interest in a reserve or conservation area but have not yet settled.	Provide clarity on how this clause affects/applies to mana whenua who have not yet settled but are recognised by local authorities.
144	Creation, classification and vesting of reserves	If a reserve is to be vested in a Local Authority then it is expected that the approval of that local authority should be gained first. For reserve land that is exchanged, it is recommended that the Bill include a requirement the new reserve must provide at a minimum for the same values (as set out in section 3(1)(a) of	Amend subclause(1)(c)(i) to read: 'a local authority *(where the approval of that local authority has been given);* or' Amend the Bill to reflect the provisions of section 3(1)(a) of the Reserves Act where reserve land is to be exchanged.

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		the Reserves Act 1977) as the original reserve and be located in proximity to the community that the original reserve served	
148	Meaning of roading powers	The suite of roading powers is very broad including, for example, powers for prosecuting stationary vehicle offences and the construction upgrade and repair of roads. This raises two issues: First, it is unclear what the justification is for these broad roading powers, and why they are required for Kāinga Ora to carry out on its urban development functions; Second, Kāinga Ora does not have the legislative focus on the control and management of a transport system, including road corridors, and is unlikely to have the appropriate expertise to effectively perform these functions. It is unclear why Kāinga Ora needs to be able to operate the roading system within its SDP area and how that satisfies the purpose of the Bill. By way of contrast, Kāinga Ora is not empowered to operate non-roading infrastructure such as water supply, wastewater and drainage infrastructure (clause 146(5)). If there are particular powers which it is considered useful for Kāinga Ora to have to facilitate urban development – for example the power to stop or temporarily close a road under section 343 and Schedule 10 of the Local Government Act 1974 – then these should be identified individually. There are also concerns about the interface between Kāinga Ora's roading function within the SDP area and AT's roading function outside it. It is difficult to see why this dual operator scenario is necessary, and how it will work in practice i.e. at or near the boundary of the project area, 'jurisdiction' (see clause 151(a)) will shift from Kāinga Ora to AT. Although Kāinga Ora has the power to delegate to other parties, this additional step would not be required if AT retained its usual role within SDP areas Clause 165 says that Kāinga Ora is responsible for the costs of any new non-roading infrastructure that it constructs. There is no equivalent in the case of roading infrastructure. It is unclear if this omission is intentional, or whether it is the intention that territorial authorities will be liable for the costs of roading infrastructure within SDPs. If it is intended that territorial authorities are responsible for funding roading projects within SDPs, this would have significant impacts on AT's financial planning and could severely impact its ability to deliver on its RLTP (by developing other planned projects). AT should therefore have a key role in decision making processes for such projects.	Roading authorities should retain roading powers, but provide for involvement of roading authority in the SDP process to ensure cohesion. Clarify that Kāinga Ora is liable for the cost of new transport infrastructure and roading projects within (or outside and related to) SDPs.
149	Kāinga Ora has roading powers if stated in development plan	Subclause (2) indicates that the roading powers available to Kāinga Ora do not extend to roads under the control of NZTA. Auckland has a large number of key arterial and connector roads with very high traffic movement on a daily basis that are crucial to the performance of the regional transport network. The protections in the Bill afforded to the state highway network and other nationally significant infrastructure, should be extended to separately recognise 'regionally significant infrastructure' to ensure the safe and efficient movement of people and goods in New Zealand's largest city is not inadvertently disrupted by Kāinga Ora's SDP activities.	The Bill be amended to either recognise regionally significant transport infrastructure in Auckland as 'nationally significant infrastructure' or otherwise separately recognise 'regionally significant infrastructure' as including significant transport infrastructure in Auckland and give it the same protections as nationally significant infrastructure proposed in the Bill.

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		If Kāinga Ora is the road controlling authority, it will be responsible for issuing Corridor Access Requests for work in the road. This includes all utility works. This would mean that AT, Watercare, Auckland Council and others that undertake operation and maintenance activities on infrastructure in the road reserve, including works on trees, would need to apply to Kāinga Ora for approval. This represents thousands of approvals a year. This again appears to be an unnecessary duplication of process, and well outside the purpose of urban transformation.	Amend the Bill to enable AT to retain authority to process Corridor Access Requests to avoid creating inefficient and duplication functions for a well-established process.
152	Limitations on Kāinga Ora exercising roading powers	If Kāinga Ora requires a Territorial Authority to dispose of land not required for a road there will be a cost involved. The Territorial Authority should be compensated for the actual and reasonable costs incurred. In addition, normally the revenue from disposing land not required for a road would go to the Territorial Authority. This needs to be made clear in this section.	Include provision for a Territorial Authority to recover costs incurred in undertaking land disposal. Clarify that any revenue from the disposal will accrue to the Territorial Authority.
153	Relevant territorial authority prohibited from performing functions and exercising powers that Kāinga Ora has under section 149(2)	Under this section Territorial Authorities cannot exercise roading powers in a project area where those powers have been allocated to Kāinga Ora, unless the Kāinga Ora Board specifically delegates them to the Territorial Authority. This has the potential to disrupt the coordination of planned and on-going roadworks and potentially the provision of public transport services.	Clarify that the territorial authority should continue to undertake roading functions that relate to on-going transport activities and services
162	Right of appeal against determination of hearings commissioner	It may be sensible to mirror the appeal rights contained in Schedule 12 of the LGA02. Specifically, it may be reasonable to mirror clause 4 of the Schedule which makes it clear that the District Court's decision on the matter is final. Such an approach would also be consistent with the limitation imposed in cl166(5) of the Bill.	Consider making it clear that, on appeal, a decision of the District Court is final.
166	Limitation on powers to alter non-roading infrastructure Kāinga Ora does not control	This clause requires Kāinga Ora to give 20 days written notice to the controlling authority if it wishes to exercise a non-roading power to alter any non-roading infrastructure that it does not have control over. It is considered that 20 working days is insufficient for a controlling authority to do the proper check to ensure that the alteration does not have negative impacts on the existing network and that it meets code of practice requirements and engineering standards. The clause also makes no mention that Kāinga Ora is required to ensure any alteration complies with existing codes of practice and engineering standards used within the relevant territorial authority's district. Subclause (3) sets out a 'reasonable' test for conditions a controlling authority may set in response to the alteration. It should also include - Whether the works while be contrary to the controlling authority's legal obligations for the quality of service, in particular the Health Act, Drinking Water Standards, Wastewater Network Discharge Consents and any existing Regional resource consent conditions.	Amend subclause (1) by • deleting the words '20 working days' and replacing it with *'30 working days'*. • Adding to the end of the subclause the following 'The *written notice must include how the alteration meets the existing codes of practice and engineering standards for that infrastructure used within the relevant territorial authority's district*.' Amend subclause (3) by adding the following: - (d) that the alterations will not be contrary to the controlling authority's legal obligations for the quality of service, in particular the Health Act, Drinking Water Standards, Wastewater Network Discharge Consents and any existing Regional resource consent conditions.

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167	Controlling authority responsible for costs of operating and maintaining non-roading infrastructure	Subclause (1) indicates that a controlling authority is liable for the costs of operating and maintaining non-roading infrastructure within a project area. There a two key concerns with this clause as it is currently worded; Firstly there should be an opportunity for the controlling authority to object to the construction of non-roading infrastructure by Kāinga Ora if it would not be able to meet the cost of operating and maintaining the infrastructure; and in doing so might impact negatively on the provision of other strategic assets required elsewhere in the district i.e. funds may need to be diverted to pay for the operation and maintenance of Kāinga Ora's infrastructure. Secondly, a controlling authority should not have to meet the costs of operating and maintaining any infrastructure that does not comply with the existing codes of practice and engineering standards used within the relevant territorial authority's district.	Amend this clause to address the matters highlighted as concerns.
176	Kāinga Ora may request or require bylaw change	Kāinga Ora's ability under the Bill to effectively force bylaw changes provides the potential to create inconsistent regulation of transport-related and other matters across Auckland. Enabling different bylaws to apply only to SDPs may cause confusion for the public (for example, in terms of bylaw coverage with respect to the geographical boundaries of project areas). The list of what the notice must include in subclause (2) should also include a summary of the feedback received in accordance with cl174.	Consideration be given to amending the Bill to remove Kāinga Ora's ability to force bylaw changes and only provide ability to request bylaw changes which may be made if considered appropriate by the bylaw-making authority Amend the clause to include an obligation to include a summary of feedback received in the notice.
177	Notice requesting bylaw change	Query how this relates to section 78 of the LGA'02 - which is not a requirement to consult, but a requirement to consider views and preferences of people affected or interested in a decision before making the decision. On its face, s 78 would still apply to a decision under clause 177, but in order to comply with s 78 the council may need to consult in order to ascertain the relevant views. It could be that the council would be able to rely on the feedback received under clause 174, but in order for this to be possible, the council would need to be provided with that feedback - see recommendation on clause 176 above. It would be good to get this clarified.	Provide clarification on the means by which the Council is able to comply with s78 of the LGA'02 or expressly exempt the Council from the obligation to comply with s78 in addition to the exemption from an obligation to consult.
180	Notice requiring bylaw change	Query whether the 20 working day timeframe is enough time - bylaws are made by Governing Body and Governing Body is not able to delegate bylaw making powers. It would be good for provision to be made for changes to be made by staff under delegation from Governing Body - this would require a clarification that the restriction on delegation of making bylaws in clause 32 of Schedule 7 of the LGA does not apply to making changes to bylaws in accordance with a notice given under clause 176.	Clarify the process by which a request for a bylaw change made under cl181 is to occur in a way that will accommodate the proposed 20 working day timeframe.
181	Bylaw-making authority must make bylaw changes required by development plan	The clause is silent on the process to be followed in terms of making the bylaw. If the intention is that the processes normally required by the LGA'02 do not need to be complied with this should be made clear.	Clarify whether standard LGA'02 bylaw making processes need to be followed.
182	Requirements under other Acts satisfied for making of bylaw changes	To avoid doubt it would be helpful if express reference was made to ss78 and 155 of the LGA'02.	Include express reference to ss78 and 155 of the LGA'02.

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183	Bylaw-making authority must preserve bylaw changes made in accordance with this subpart	Thought needs to be given to how this impact on the requirements relating to the review of bylaws under the LGA'02.	Consider LGA provisions relating to review of bylaws and specify process to be followed in relation to bylaws made under the Bill.
193	Kāinga Ora may set rates for financial year	Subclause (3)(b) refers to section 22 of the Local Government (Rating Act) 2009 relating to defence land. Note that there is similar provision in s 73 of the Local Government (Rating Act) (LGRA) in respect of Watercare land - this should also be provided for in the Bill.	Include a cross-reference to s73 of the LGRA with respect to Watercare land.
195	Rates may cover costs of collection and recovery	Councils will incur costs in calculating, collecting and recovering targeted rates set by Kāinga Ora, those costs should be covered.	Alter the discretion to set a targeted rate at a level that covers costs incurred by Councils in implementing it to become a mandatory process.
199	Relevant territorial authority to collect rates	Council must calculate, collect and recover targeted rates set under the UDA Bill - but there is no explicit provision for the transfer of funds from the council to Kāinga Ora, how that is to be done, or by when.	Provide mechanism specifying how and when targeted rates set by Kāinga Ora and collected by Council are to be transferred to Kāinga Ora.
200	Rates must be collected in accordance with values and factors	There is no provision for how the Rating Information Database (RID) correction provisions in the LGRA apply in respect of rates set under this Bill. By way of comparison, the Infrastructure Funding and Financing Bill (IFF Bill) provides that various provisions of the LGRA apply.	Consider mirroring relevant provisions of IFF Bill that relate to LGRA.
204	Penalties on unpaid rates	Clause 204 is drafted as an empowering provision rather than as imposing an obligation - council **may** add penalties but doesn't have to. In some cases, the council does not add penalties to unpaid rates - e.g. when a payment plan is in place. This has developed as a practice but is not explicitly stated in a policy. The imposition of penalties would therefore be at the discretion of council.	Confirm that it is intended that the Council will have a discretion in relation to charging penalties.
205	Application of LGRA: calculation, payment and recovery	Council's early payment policy applies under subclause (4), but there is no provision as to how this relates to the money we then have to transfer - e.g. does council transfer the amount collected, or the amounted budgeted. This needs to be clarified.	Provide clarification on the process to be followed.
213	Kāinga Ora and relevant territorial authority to share rating information	There is reference in subclause (2) to 'access' - is this intended to be full unrestricted access or access that is the same as ordinary public access in accordance with section 28 of the LGRA? This should be clarified. Query regarding the application of section 60 of the Privacy Act 1993 to Kāinga Ora in relation to the RID (being a public register) - this too should be clarified.	Make clear the scope of the Council's obligation to provide Kāinga Ora with access to its rating information database having regard to the relevant provisions of the LGRA and the Privacy Act.
224	Right to reconsideration of requirement for development contributions	Subclause (3) reference to 'its development contributions policy' - should be 'the relevant development contributions policy' as this is consistent with the defined term.	Amend wording to align with definition.
284	Supporting territorial authorities may nominate for appointment to certain committees and boards	This section provides for territorial authorities to nominate for appointment to a project's governance body, conditional on an authority's support to establish the specified development project. It appears to 'punish' a territorial authority which may have had reservations at the initial establishment process when details of the development project were not available (i.e. the development plan is not even drafted at the establishment phase). Territorial authorities should as of right have a representative on the governance body regardless of their initial	Remove all references to 'supporting territorial authorities' and replace with 'relevant territorial authorities'

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		position at the establishment phase as such representation would provide that 'local' voice and ensure the implementation of the development project understands the local context. In addition, it is recommended that the relevant regional authority also be invited to nominate for appointments as regional authorities also have interests in urban developments, resource use, infrastructure provision, environmental outcomes etc.	Include regional authorities in subclause (1)(c) and in subclause (2).
291	Functions and powers that may not be delegated outside Kāinga Ora	Under clause 291, Kāinga Ora is able to delegate the setting of a targeted rate to certain people within Kāinga Ora - this is different to the position that applies to council's rate setting - the LGA provides that the council cannot delegate the setting of rates (see clause 32 of Schedule 7 of the LGA).	Consider whether ability to delegate rate setting power is appropriate or necessary.
293	Certain delegations subject to relevant territorial authority approval	There appears to be a typo in subclause (2) – 'delegate' should perhaps be 'delegation'.	Consider amending wording.
Schedule 2	Transfer and disestablishment	No provision seems to have been made to explain who is responsible for resource consents issued by Kāinga Ora. In particular, provision needs to be made to address monitoring, enforcement, and modification or cancellation of conditions. There is also no provision made in relation to development contributions or targeted rates that apply in a disestablished specified development project. In addition, the Bill fails to require Kāinga Ora to deliver transport and other infrastructure to the same standards as would ordinarily be required under AT standards, or Code of Practice for Land Development and Subdivision which most territorial authorities (including Auckland Council) have adopted. The provision and eventual transfer of transport and infrastructure assets and financial instruments by Kāinga Ora could expose territorial authorities to financial liabilities from maintenance and renewal obligations, and raises risk of redundant or unsuitable assets.	Include provisions dealing with the ongoing management of consents issued by Kāinga Ora, and of development contributions and targeted rates set by Kāinga Ora, after the disestablishment of specified development projects. Amend wording to ensure that Kāinga Ora should be required to meet relevant standards for any transport and other infrastructure it builds as part of a SDP in Auckland, unless otherwise authorised by relevant infrastructure provider.
Schedule 2 Clauses 3 and 4	Transfer by agreement; Transfer by transfer order	These two clauses provide for the transfer of Kāinga Ora assets back to a transferee – either by agreement or by way of an Order in Council. In both clauses there needs to be recognition that Kāinga Ora should not transfer any assets that have not be built to the existing codes of practice and engineering standards used within the relevant territorial authority's district. Otherwise the legislation is implying that a transferee has to accept substandard assets which will have negative impacts for the district.	Amend clauses (3) and (4) to require that any asset that Kāinga Ora wishes to transfer must have been built to the existing codes of practice and engineering standards used within the relevant territorial authority's district.
Schedule 3 Clause13	Mediation	Subclause (2) (a) should include any representatives of a submitter as they may be more relevant to the specific issue at hand.	Reword subclause (2) (a) to read: 'any of the submitters or their representatives.'
Schedule 3 Clause 21	Independent hearings panel	Subclause (5) of schedule 3 allows for the Environment Court to cancel or vary an order relating to the protection of sensitive information by an IHP. Given the required makeup of an IHP the consequence could be one Environment Court judge overruling another's decision.	Consider whether it is appropriate to create the potential for one Environment Court judge to effectively overrule another.

Integration with the Building Act

1. There are a number of matters that will require clarification in the Bill and potentially the Building Act if Kāinga Ora becomes the resource consenting authority for a SDPA. These matters relate to;

    - the process of how the checking of whether a building consent application complies with the RMA planning document for the district. The current wording in the Building Act (S370 refers to that being done by the TA for the district but if Kāinga Ora are assuming the role of the consenting authority (for RMA) then the Building Act doesn't specifically direct the TA to check with them.
    - provision needs to be included in the Building Act section 37 about the role of Kāinga Ora in making the assessment of whether a resource consent is required. The current S37 wording only says for the TA to make the assessment – but if Kāinga Ora is the consent authority under the RMA then they will need to make the assessment and advise the TA for the Building Act whether a S37 is applicable to go with a building consent or PIM.
    - complexity arises where there is a potential for Kāinga Ora to give effect to a subdivision which affects buildings. The requirements of section 116A of the Building Act put a responsibility on the TA to do checks that the buildings will still comply with the building code after the subdivision. Clarity is needed because it would not be the TA issuing the S224(F) certificate.

2. A suggested solution in regards to Plan Checks as per s370 of the Building Act and the application of LGOIMA requests would be a mechanism being built into the Bill that requires Kāinga Ora to proactively provide information to the local TA for the purpose of processing building consents.

Attachment C – Technical funding and financing matters

Refinements to the rating legislation

The rating mechanisms in the Local Government (Rating) Act 2002 provide a fit for purpose funding tool for council operational costs. The funding tools in the UD and IFF Bills are primarily designed to repay capital investments. Once the assets transfer to council ownership the ongoing operating and eventual replacement costs will transfer to council and be funded from general rates.

Auckland Council currently uses targeted rates to fund repayment of one-off capital investment in defined geographical areas. The benefits of these investments, and the ratepayers who benefit from them, are well defined. For our business improvement districts and the City Centre Targeted Rate, there are established governance arrangements that provide ratepayer representation on the investment programmes.

Benefits will not be so well defined for some of the investments envisioned under the UD and IFF Bills. Additionally, some landowners will be unwilling participants. The key challenge that Kāinga Ora will face when setting targeted rates (or an SPV under the IFF Bill) will be to strike a balance between generating a certain revenue stream to repay capital costs and setting a politically acceptable stream of compulsory charges on land.

Under these Bills, targeted rates will be funding infrastructure that supports development of land that has widely varying development potential, development cost and size.

Current legislation allows targeted rates to be set that reflect size and development potential (as it relates to zoning). However, additional rating methods would allow Kāinga Ora greater flexibility to better align benefits received from infrastructure investment and to manage the incidence of rates used to recover those costs.

Land title structure and ownership change through time as it is developed and subdivided. As land is developed a proportion of the land area ends up as non-rateable roads and parks. The value of these improvements gets added to the sub-divided land. Land is subdivided into smaller blocks as development proceeds.

In any one defined geographic area the land will have different types of owners (e.g. owner occupiers, landlords, crown, land bankers, developers) and they will have widely divergent interests and objectives, and levels of equity and cashflows.

To help manage the challenges that will be faced by Kāinga Ora (and an SPV under the IFF Bill) the legislation should provide the broadest flexibility to set rates so that the fairest outcomes can be achieved. We suggest that additional mechanisms are required to:

- be able to set the charge up front so that ratepayers/levy payers have certainty regarding their liability through time, without the need for annual adjustments
- provide additional rating methods that reflect feasible development capacity, so that ratepayers aren’t charged for benefits that which are not financially viable
- defer the incidence of liability for owner/occupiers to when land is developed or changes ownership.

Technical issues: rates

Collection of rates is essential to our ability to deliver services to Aucklanders. For the 2020/2021 year, we plan to collect rates of $1.9 billion which will make up 45% of our revenue. We set and collect the rates for 570,000 properties each year and invoice owners quarterly. To ensure this process runs smoothly and accurately we undertake several end to end production tests beginning in February each year. Final invoices are generated early July for delivery in early August.

The council has successfully added the charges for liable properties in the Milldale development to rates invoices with a manual process. These charges are set once for each property and change by a fixed amount annually.

A similar type of charge will not be able to be easily implemented under the UD Bill, or IFF Bill as more complicated charges that change annually will be required. To have the impact on development envisaged the number of properties involved will also be much greater. Delivery of this service to Kāinga Ora, or a special purpose vehicle under the IFF Bill, will require major system changes for the council. This will raise costs well beyond those incurred to support Milldale as well as presenting administration risks annually which are discussed below.

If Kāinga Ora is unable to provide us with the necessary information to assess their rates in time it will impact on our ability to issue assessments and invoices for those properties. This may then have reputational, cashflow and GST implications for the council and Kāinga Ora.

The legislation should require Kāinga Ora to provide us with rate setting information to the same timetables we work to internally to avoid timing risks. If the rate is assessed on a basis not currently used by council, then additional time may be required to establish and verify the required rating data. This requires the structure of the rates options proposed for the coming year to be advised before the February test cycle. Kāinga Ora should be required to provide us with the final rates for year by 10 May as the IFF Bill requires for an SPV under clause 40(4).

The provisions of the bill appear to cover all the matters required for Kāinga Ora to set rates and for the council to collect them on their behalf. However, there are several legal, administrative and policy parameter dependencies in the production of rates assessments and invoices each year. It is not possible at this time to determine exactly how it will work in practice. In the event of unforeseen issues with implementation it would be desirable for the legislation to be able to be amended by order-in-council. The Local Government (Auckland Transitional Provisions) Act 2010 made provision for this. We made use of this provision to adjust the rates transition mechanism so that it would function as intended.

We also note that Clause 215 empowers Kāinga Ora to take back any or all the functions that the council would be required to undertake on their behalf. However, other parts of the UD Bill require that where both Kāinga Ora rates and council rates are levied on a property then the rates must be assessed and invoiced together. That implies that if Kāinga Ora take back the assessing and invoicing of their rates then they will have to take on the responsibility of assessing and invoicing our rates as well. We are not sure that this is what was intended and recommend that the clause be amended.

Technical issues: development contributions

The council is forecasting to collect $300 million of development contributions in 2020/2021. Each year the council undertakes case by case assessment of between 15,000 to 18,000 development contributions on resource and building consents and service connection authorisations. Developers work carefully within the payment calculation methodology and payment timing requirements, set out in the council's Development Contributions Policy, to keep their costs as low as possible. To ensure the integrity of this revenue stream it is vital that payments are calculated correctly, and final statutory documentation is not released until payments are made, as enabled by Section 208 of the Local Government Act 2002.

The council considers that the development contributions provisions in the Bill will deliver the intended policy goals. The Bill doesn't preclude the council from recovering the costs of growth infrastructure with development contributions from developers in a development area.

Both Kāinga Ora and council will be operating under the Local Government Act 2002 (LGA) provisions for requiring development contributions. The development contributions regime in the LGA prevents developers being charged twice for the benefits they receive from an asset.

The LGA provides that territorial authorities, and now Kāinga Ora, may assess a development contribution on application for a resource or building consent or on service connection. Both the council and Kāinga Ora may be consenting authorities under the Bill, for regional and other consents respectively. To recover all the growth capital costs both parties will need to have consent applications assessed for both their own and the others development contributions. The Bill needs to make specific provision for this, otherwise developers may not be liable for both development contributions.

The council recommends that transition provisions are included in the Bill to provide for the council to transfer development contributions that have been assessed under a consent but not received from the developer for assets which Kāinga Ora is now taking responsibility for.

The council recommends that clause 223(1)(d)(i) is removed from the Bill as this precludes development contributions being required for the provision of reserves on non-residential development. Section 12 of the Local Government (Community Well-being) Amendment Act 2019 removed this restriction from the LGA.

The IFF Bill sets out that the SPV and the local council must take reasonable steps to enter into an agreement for the administration of the levy. If they are unable to reach agreement, then the monitor determines the outstanding terms. The UDA make provision for Kāinga Orato recover the reasonable costs of the council for administering Kāinga Ora 's rates. However, there is no provision requiring a formal agreement between Kāinga Ora and the council or what happens if agreement on cost sharing cannot be agreed. We recommend that these provisions be added

There may need to be an adjustment made to the Long Term Plan (LTP) to align our processes with any decisions on Development Plans. This is because Auckland Council is due to go out to public consultation on the LTP in August with key decisions to be made in April/May 2021. It is likely that any development plans created in Auckland would not be approved until the end of 2021 at the earliest.

The Bill duplicates many of the Rating powers and Local Government Act provisions which Council operates under but should include the ability to make amendments for administrative issues that arise through an order-in-council. A similar process was used in 2009 when Auckland Council amalgamated with its predecessor organisations to overcome any technical issues related to rates and finance.

Council usually invoices developers for development contributions as part of its subdivision process and does not release its section 224(c) certificates that enable titles to be issued until these fees and charges have been paid. This means that Council and its asset managers are satisfied with the quality of assets to be vested and payment is made for development contributions and infrastructure growth charges for water/wastewater. If Kāinga Ora are responsible for issuing consents to third parties, these must be levied at the correct time or else developers may refuse to make payment.