
KEI MUA I TE AROARO O TE RŌPŪ WHAKAMANA
I TE TIRITI O WAITANGI
BEFORE THE WAITANGI TRIBUNAL

WAI 2750

IN THE MATTER OF the Treaty of Waitangi Act 1975

AND

IN THE MATTER OF Kaupapa inquiry into claims concerning
Housing Policy and Services

EVIDENTIAL FACT SHEET
LAND FOR HOUSING PROGRAMME

(TE TŪĀPAPA KURA KĀINGA –
MINISTRY OF HOUSING AND URBAN DEVELOPMENT)

1 Whiringa-ā-nuku | October 2021

CROWN LAW

TE TARI TURE O TE KARAUNA

Pouaka Poutāpeta PO Box 2858
TE WHANGANUI-Ā-TARA WELLINGTON 6140
Waea Tel: 04 472 1719
Waea Whakaahua Fax: 04 473 3482

Whakapā mai: Contacts:

M Tukapua / H Graham

Matawai.Tukapua@crownlaw.govt.nz / Harry.Graham@crownlaw.govt.nz

Counsel Acting:

Rachael Schmidt-McCleave

rachael.schmidt-mccleave@kschambers.co.nz

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Waitangi Tribunal

1 Oct 2021

Ministry of Justice
WELLINGTON

1.	Basic information	<p>Title of policy / programme: Land for Housing Programme (formerly the Crown Land Development Programme)</p> <p>Year introduced: 2017 (the Crown Land Development Programme dates back to 2015)</p> <p>Still current?: Yes</p> <p>Administering agency(ies): Te Tūāpapa Kura Kāinga - The Ministry of Housing and Urban Development (HUD)</p> <p>High level summary of policy/programme:</p> <p>The Land for Housing Programme builds on the 2015 Crown Land Development Programme that was previously administered by the Ministry of Business, Innovation and Employment. (MBIE).</p> <p>Under the Programme, HUD purchases vacant or underutilised Crown-owned land as well as some private land. That land is then on-sold to iwi and/or private development partners on the condition that the land is developed in accordance with the government’s minimum requirements on development pace, yield and the mix of public, affordable (KiwiBuild) and market priced housing delivered. These conditions are managed through a contractual relationship (a Development Agreement).</p> <p>The Programme received additional funding in Budget 2021, and at that time had been appropriated a total land acquisition budget of \$470 million (which is progressively being spent on acquisitions).</p> <p>Overlapping/Related policies/programmes:</p> <p>The Land for Housing Programme is one of the channels through which the government delivers KiwiBuild and developers in the Programme can receive a KiwiBuild underwrite, although this needs to be negotiated separately with Kainga Ora – Homes and Communities (Kainga Ora).</p> <p>The Programme also delivers some public housing, through either Community Housing Providers or Kainga Ora. Community Housing Providers may be supported in this delivery, through HUD’s public housing supply programme.</p> <p>Other agencies involved in development, implementation, or ongoing administration:</p> <p>HUD is aware that Te Puni Kōkiri has independently provided some capacity and capability support to iwi participating as developers in the Programme. As above, Kainga Ora administers the KiwiBuild scheme and so has some involvement in KiwiBuild delivered through the Programme, and it can be the final owner of public housing delivered through the Programme.</p> <p>A large number of agencies are involved as vendors i.e. they sell their surplus land to the Programme for development. The most regular vendor agencies are Waka Kotahi and the Ministry of Education.</p>
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2.	Description of Policy / Programme	<p>The Programme has three distinct phases, 1) identification and acquisition, 2) negotiation and contracting, and 3) delivery.</p> <p><i>Identification and acquisition</i></p> <p>HUD officials conduct due diligence on vacant and underutilised land, to establish whether it is suitable for residential development. This land may be advised to HUD by other Crown agencies, may be identified through discussions with real estate agents or through other standard networks, or may be brought to the Programme by development partners.</p> <p>If land is suitable, HUD enters sale and purchase negotiations with the vendor, with all transactions (including those with other Crown agencies) based on independent valuations to establish market value. Joint Ministers of Finance and Housing approve all successful acquisitions, and set the high-level development outcomes (i.e. the minimum requirements relating to development pace, yield and the mix of public, affordable (KiwiBuild) and market priced housing that the developer must deliver).</p> <p><i>Negotiation and contracting</i></p> <p>Once it has acquired land, HUD seeks a development partner. The decision on development partners is governed by the Programme’s procurement framework, and is typically:</p> <ul style="list-style-type: none"> • post-settlement governance entities who have Treaty rights to the land acquired for the Programme (such as a right of first refusal, or a specific right included in a deed of settlement); • development partners who bring the land to the Programme, particularly iwi as part of an established relationship; • private sector developers who are either on the Programme’s Developer Panel (Auckland) or who are successful through a single- stage competitive procurement (outside Auckland). <p>HUD invites the potential development partner to submit a development proposal, conducts an assessment of that proposal and – if the proposal is acceptable – completes Development Agreement negotiations to contract for the delivery of the housing.</p> <p><i>Delivery</i></p> <p>HUD oversees the delivery of the housing under the terms of the Development Agreement, which include regular reporting and meetings, and the ability for the Crown to “step-in” to complete the development if there is any significant failure in delivery. To date, there has not been any significant failure in delivery.</p> <p><i>Statistics on delivery with iwi/ Māori</i></p> <p>There have been 18 Development Agreements contracted since 2015. Of these, 14 are Māori developments with iwi/ Māori partnerships involving land valued at \$180.19 million. The balance of four non-Māori developments involving land valued at</p>
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		<p>\$34.88 million.</p> <p>This means, of the Programme's Development Agreements, 82% by land value have involved Māori as development partners.</p>
3.	Outline of the process to develop this Policy / Programme	<p>Cabinet received advice and a Business Case in 2017 which detailed the Programme's parameters, including the terms on which it would acquire and on-sell land, the outcomes it would seek from its development partners, its procurement policies, and funding.</p> <p>The advice and Business Case built upon the 2015 Crown Land Development Programme (administered by MBIE), but updated some of the settings, including expanding the Programme to private land, and nationally (until 2017 the Programme was only active in Auckland and Queenstown).</p>
4.	Aims or Objectives of the Policy / Programme	<p>The Land for Housing Programme has three key objectives:</p> <ol style="list-style-type: none"> 1. Re-purpose underutilised and vacant land which is suitable for residential development. 2. Increase the supply of new housing at pace. 3. Deliver target percentages of public and affordable/ KiwiBuild housing. <p>The Government has targets for public and affordable/ KiwiBuild housing. The Programme currently seeks up to 30 percent minimum Development Outcomes at any one site of either KiwiBuild and/ or public housing, with a Programme level target of 40 percent KiwiBuild housing and 20 percent public housing.</p> <p>As part of delivering these targets, the Programme also seeks to deliver on broader government objectives, such as those included in <i>Te Whare Ahuru He Oranga Tangata: Māori Housing Strategy</i> which sought to increase iwi/Māori participation in development.</p>
5.	Outline of steps taken to implement the Policy / Programme	<p>The Programme is implemented through the steps outlined above: land identification and acquisition negotiations, developer identification and contractual agreement to development terms, and then HUD oversight of delivery by the developer partner.</p>
6.	Outline of monitoring and evaluation built in to Policy / Programme	<p>HUD monitors the delivery of housing under each development agreement via regular developer reporting and project control group meetings.</p> <p>The Programme sets targets yearly, such as the number of sites investigated, how many progress through due diligence phases, the number of successful acquisitions and the number of development agreements entered into. The Programme also tracks the number of homes delivered through these agreements, and the percentages of public, affordable and KiwiBuild housing against the government's targets for the Programme. The Programme is able to compare progress against previous years, and also able to assess other outcomes such as delivery by region.</p>

7.	Availability of quantitative or qualitative data to demonstrate success or failures of the Policy / Programme to achieve its stated aims	As above, the Programme is able to assess its progress against a number of measures. HUD officials report to Ministers against the Programme's overarching programme targets when it seeks agreements to the terms of development agreements.
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