



Aide-memoire

Publication of report on visit to New Zealand by the Special Rapporteur on the right to housing			
Date:	21 May 2021	Security level:	In Confidence
Priority:	Medium	Report number:	AMI20/21050535

Information for Minister(s)	
Hon Dr Megan Woods Minister of Housing	For noting and forwarding to the Minister of Foreign Affairs. Note that officials would like to discuss the decision about providing a formal or informal response to the report, and an oral statement at the Human Rights Council, at the next officials' meeting.
Hon Poto Williams Associate Minister of Housing (Public Housing)	For noting.
Hon Peeni Henare Associate Minister of Housing (Māori Housing)	For noting.
Hon Marama Davidson Associate Minister of Housing (Homelessness)	For noting.
Hon Nanaia Mahuta Minister of Foreign Affairs	Copy for noting.

Contact for discussion				
Name	Position	Telephone		1 st contact
Claire Leadbetter	Manager, Tenures and Housing Quality	04 832 2431	s 9(2)(a)	✓
Georgia Bloor-Wilson	Graduate Policy Advisor, Tenures and Housing Quality	04 831 6062		

Other agencies consulted
Ministry of Foreign Affairs and Trade (MFAT)

Minister's office to complete

<input type="checkbox"/> Noted <input type="checkbox"/> Seen <input type="checkbox"/> See Minister's notes <input type="checkbox"/> Needs change <input type="checkbox"/> Overtaken by events <input type="checkbox"/> Declined <input type="checkbox"/> Referred to (specify) <hr/>	Comments
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Date returned to HUD:



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Publication of report on visit to New Zealand by the Special Rapporteur on the right to housing

For: Hon Dr Megan Woods, Minister of Housing
Hon Poto Williams, Associate Minister of Housing (Public Housing)
Hon Peeni Henare, Associate Minister of Housing (Māori Housing)
Hon Marama Davidson, Associate Minister of Housing (Homelessness)

CC: Hon Nanaia Mahuta, Minister of Foreign Affairs

Date: 21 May 2021 **Security level:** In Confidence

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Purpose

1. This aide-memoire provides you with an update on the publication of the final report on the visit to New Zealand by the Special Rapporteur on the Right to Housing (attached at Annex B), and provide communications lines in response to any queries regarding the publication of the report (attached at Annex A).

Background

2. The (then) Special Rapporteur on the right to adequate housing, Ms. Leilani Farha, visited New Zealand in February 2020 at the invitation of the Government. New Zealand maintains an open invitation to all Special Rapporteurs and Independent Experts to visit New Zealand as part of our transparent human rights policy settings.
3. The report on the Special Rapporteur's visit to New Zealand will be published on 26 May 2021. It will be published initially on the UN documents website, before later publication on the Special Rapporteur's webpage and linked to the documents list for the Human Rights Council 47th session. The Office of the Special Rapporteur is not planning any additional publicity when the report is published.
4. This aide-memoire provides a suggested communications lines for any queries relating to the publication of the report.
5. In the report, the Special Rapporteur underscored that the housing crisis confronting New Zealand is a human rights crisis that must be addressed urgently. The report commends several measures taken by the Government to address the housing crisis, but also raises several concerns with New Zealand's housing system. The report makes 27 recommendations to mitigate these concerns. Further information about key commendations, concerns and recommendations are outlined from paragraph 9.
6. The new Special Rapporteur on the Right to Housing, Mr Balakrishnan Rajagopal, will also present the final report to the 47th session of the Human Rights Council during an interactive dialogue on 22 June 2021. New Zealand will have an opportunity to make a statement in response (through the New Zealand Permanent Mission in Geneva).

Communications following publishing of the report

There is likely to be a low level of publicity regarding the initial publication of the report

7. There is likely to be a low level of publicity surrounding the initial publication of the report on the UN documents website on 26 May, as the Office of the Special Rapporteur is not planning any additional publicity when the report is published. There is likely to be a higher level of publicity surrounding the report when it is discussed in the interactive dialogue at the 47th session of the Human Rights Council on 22 June. The high-level findings of the Special Rapporteur were reported by the media at the time of her visit.
8. Suggested communications lines for responding to any queries Ministers receive following the publication of the Special Rapporteur's report are attached at Annex A. Other general communications lines on the Government's response to the housing crisis and the Budget 2021 announcements regarding housing for Māori are also attached at Annex A.

Key points raised in the report

9. The Special Rapporteur's report commends many recent actions taken by the Government to address the housing crisis, such as the Homelessness Action Plan, the Māori and Iwi Housing Innovation (MAIHI) Framework for Action, the Residential Tenancies Amendment Act 2020 and the Residential Tenancies (Healthy Homes Standards) Regulations 2019.
10. However, the report raises several concerns regarding New Zealand's housing system and makes several recommendations which may be the subject of public interest. Ministers may be asked questions about how the Government intends to respond to these concerns and recommendations.
11. Key concerns and recommendations in the report include:
 - a. The primary recommendation of the report is for the national Government to recognise the right to adequate housing as an enforceable right in the New Zealand Bill of Rights Act 1990. The report characterises the housing crisis as a "human rights crisis that must be addressed urgently", and is critical of successive governments' failure to recognise the housing crisis in this way. The report is critical of New Zealand's "uneven approach to human rights, whereby some rights (civil and political) are enforceable and other rights (socio-economic) are not", as the former are generally affirmed by the New Zealand Bill of Rights Act 1990 but the latter are not.
 - b. The report recommends that the Government develops a rights-based housing strategy, with a key focus on achieving Māori self-determination in this area as a means of realising the rights enshrined in Te Tiriti o Waitangi/the Treaty of Waitangi and the United Nations Declaration on the Rights of Indigenous Peoples. While the Special Rapporteur states that the Government is taking initial steps in the right direction, the report finds that overall iwi have so far not been provided with sufficient resources to provide services to improve the housing crisis in their communities. This may be a key area of public and media interest given the ongoing WAI 2750 – Housing Policy and Services Inquiry being heard in the Waitangi Tribunal.
 - c. Another recommendation is to legislate for a complete prohibition of any eviction that may result in homelessness. The report states that homelessness and forced evictions are violations of international human rights law, and are inconsistent with New Zealand's commitments under target 11.1 of the UN Sustainable Development Goals, which requires all states to ensure access for all to adequate, secure and affordable housing within the next decade. The Special Rapporteur remains concerned that neither the Residential Tenancies Act 1986 nor other national law provide for any certain protection against an eviction into homelessness.
 - d. The report recommends further measures to strengthen security of tenure for tenants, including the regulation of rent increases and rental freezes in tight

markets. The report also expresses a concern that the protections introduced for tenants, such as through the Residential Tenancies Amendment Act 2020 and the Residential Tenancies (Healthy Homes Standards) Regulations 2019, may contribute to increasing rental prices as the private rental market is “underregulated”. Officials at HUD are aware of high levels of tenant interest in rent controls, especially following the March 2021 announcement of housing policies.

- e. Another recommendation made by the report is to reduce housing speculation and the financialisation of housing by adopting a capital gains tax “as a sustainable revenue source to support a strong housing system”. The report identifies the lack of a capital gains tax as one of several contributing factors towards the high levels of property speculation in the New Zealand housing market. Officials at HUD are also aware of public and media interest in a capital gains tax, despite the Government’s continued position that it will not introduce such a tax.
- f. The report also recommends that the Government redirects, in the long-term, expenditure away from programmes that are failing to realise the right to housing, such as the use of motels as emergency shelters. The report is critical of the use of motels as emergency shelter both due to high levels of cost inefficiencies and because they are an inappropriate response to homelessness for families or those requiring ongoing support.

Next steps

12. Prior to the 47th session of the Human Rights Council, New Zealand has the opportunity to make an informal and/or formal response to the report. This is an opportunity to provide an update on actions taken by the Government since the Special Rapporteur’s visit in February 2020 and demonstrate continued improvement following on from the report, such as by highlighting the housing initiatives announced in March 2021.
13. An informal response which highlights key developments in a brief summary could be provided for the former and current Special Rapporteurs’ information. New Zealand can also submit a formal written response which would be published as an official UN document on the UN documents webpage. A formal response would need to be submitted to the Office of the Special Rapporteur by 1 June for it to be uploaded ahead of the 47th session of the Human Rights Council on 22 June. We are working with MFAT to determine whether the deadline for submitting the formal response can be extended.
14. The new Special Rapporteur on the Right to Housing, Mr Balakrishnan Rajagopal, will also present the final report to the 47th session of the Human Rights Council during an interactive dialogue on 22 June. The Special Rapporteur may choose to refer to any informal response provided by New Zealand in his presentation.
15. New Zealand, through the New Zealand Permanent Mission in Geneva, will have the opportunity to make a brief (five minute) statement in response to the report during the dialogue. It would be highly unusual for New Zealand to not make an oral statement in response to the report. The New Zealand Human Rights Commission and New Zealand civil society organisations would have the opportunity to participate in the dialogue. Officials do not anticipate substantive discussion on the report during the dialogue (i.e. comments or questions from other countries).
16. Officials would like to discuss the options about providing a formal or informal response, and/or an oral statement, at the next Minister’s meeting.

Annexes

17. Annex A: Communications materials
18. Annex B: Visit to New Zealand: Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context, Leilani Farha.

Annex A: Communications materials

Suggested communications lines in response to queries regarding the report

- The Special Rapporteur on the right to adequate housing visited New Zealand in February 2020 at the invitation of the Government.
- As part of our open and transparent engagement with the international human rights system, New Zealand maintains a standing invitation to all Special Rapporteurs and Independent Experts to make country visits to New Zealand.
- The Government recognises that there is a housing crisis in this country. The visit by the Special Rapporteur was hosted in the context of our ongoing active engagement with Māori, civil society, experts, community housing providers, homeowners, tenants and others to address this crisis.
- We welcome the report and the Government is closely considering the report's recommendations.

Other communications lines on the Government's response to the housing crisis

- This Government is firmly focused on increasing the supply of housing throughout the country and is delivering the change that is needed to address a housing crisis that has been decades in the making.
- As a result of our housing policies more people and whānau are being helped than ever before. Under this Government, more houses are being built now than at any time since the 1970s and the changes to the Residential Tenancies Act are improving the quality and security of rental accommodation.
- By 2024 we will have delivered more than 18,000 public and transitional housing places and we remain committed to increasing supply further.
- By urgently putting in place new supply and continuing to build more public housing we will end our reliance on motel accommodation. We know that motels aren't an ideal solution, however, they are preferable to people living in cars, staying in overcrowded housing, sleeping in parks or on the street.
- By working in partnership with the community we are increasing the supply of housing, supporting people with services to help them sustain suitable housing, and build better lives.
- We know Māori homeownership rates are much lower than the rest of the population so it is an area that we want to put focus on.
- To meet the needs of Māori who are living with homelessness, more has to be done through services based in Te Ao Māori, in which every activity draws on Māori values and practices.
- The Government's role, as Treaty partner is to support Māori to deliver solutions for Māori and empower local communities to develop and deliver services to achieve Māori housing and wellbeing outcomes. Budget 2021 supports that principle.

Communications lines on the Budget 2021 announcements regarding housing for Māori

- Budget 2021 is delivering \$380 million to improve Māori Housing in the regions. \$350 million will also be set aside for a Māori Infrastructure Fund from the previously announced \$3.8b Housing Acceleration Fund.

- The Government will partner and invest with Māori-led housing solutions such as:
 - 1,000 new homes for Māori in regions that will be a range of papakāinga housing, affordable rentals, transitional housing, and owner-occupied housing.
 - Funding to strengthen MAIHI approaches and partnerships with iwi and Māori to deliver more whenua-based housing and papakāinga.
 - Funding to improve housing quality through repairs of 700 Māori-owned houses for whānau most in need, led by Te Puni Kōkiri to improve social and health outcomes.
 - \$30 million towards building future capability for iwi and Māori groups to accelerate housing projects and a range of support services.

Annex B: Visit to New Zealand: Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context, Leilani Farha