



Briefing

Final Cabinet Paper - Advancing the housing supply and affordability package			
Date:	27 May 2021	Security level:	In Confidence
Priority:	Urgent	Report number:	BRF20/21050972

Action sought		
	Action sought	Deadline
Hon Dr Megan Woods Minister of Housing	Approve the attached Cabinet Paper for lodging Forward this briefing to the Prime Minister and the Associate Minister of Housing (Māori Housing)	28 May 2021

Contact for discussion			
Name	Position	Telephone	1 st contact
Hilary Eade	Kaiaki, Place-Based Policy and Programmes	04 831 6032	✓
Joey Shannon	Lead, Infrastructure Fund Policy		

Other agencies consulted
[Names]

Minister's office to complete

- Noted
- Seen
- Approved
- Needs change
- Not seen by Minister
- Overtaken by events
- Declined
- Referred to (specify)

Comments

Date returned to HUD:



Briefing

Final Cabinet Paper - Advancing the housing supply and affordability package

For: Hon Dr Megan Woods, Minister of Housing

Date: 27 May 2021

Security level: In Confidence


Priority: Urgent

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Purpose

1. This briefing provides advice on outstanding issues related to the Infrastructure Acceleration Fund in advance of consideration by Cabinet on 31 May 2021, and provides an updated draft of the Cabinet paper *Advancing the housing supply and affordability package*.

Recommended actions


2. It is recommended that you: 

Role of Kāinga Ora

1. **Note** that HUD officials consider Kāinga Ora best placed to administer the Infrastructure Acceleration Fund (IAF) due to their established operational role and the alignment between the purpose of the initiative and Kāinga Ora's statutory functions

Noted

2. **Note** that officials consider that a committee of the Kāinga Ora Board is the preferred option for acting as the advisory group to Ministers for investments under the IAF as this:

- 2.1 provides relative efficiency compared to other options;
- 2.2 maintains accountability within a single entity; and
- 2.3 supports alignment with other Kāinga Ora initiatives such as the Kāinga Ora Land Programme and administration of the ^{s 9(2)(f)(iv)} 

Noted

3. **Note** the following mitigations proposed in the Cabinet paper to address the potential risks of the Board committee acting as the advisory group:

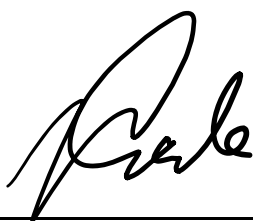
- 3.1 establishing a cross-agency reference group to inform the advice of the committee (including with regard to alignment with other infrastructure funding processes) and requiring the committee to describe how that group's advice has been accounted for;
- 3.2 providing for the Minister of Housing to issue a letter to the Chair of the Kāinga Ora Board setting out her expectations for the approach to advice;
- 3.3 monitoring of the Board by HUD to ensure the Ministers' expectations are met;
- 3.4 second opinion advice by HUD, and any other entity as directed by Ministers, for proposals where Kāinga Ora has a material conflict of interest;

Noted

4. **Indicate** if you wish to include the further mitigation of requiring that the committee include at least two members not on the Kāinga Ora Board; Yes / No

Ensuring regional spread

5. **Note** officials understand that Ministers wish to ensure sufficient regional spread across the Infrastructure Fund, including the IAF; Noted
6. **Note** the current mitigations to reduce the risk of undue concentration of funding:
- 6.1 investment criteria have been designed to not disadvantage smaller centres;
- 6.2 the expectation letter to the advisory committee enables expectations for advice that has regard to regional spread to be considered; and
- 6.3 the ability to run a second funding round if there are insufficient quality proposals providing for regional spread; Noted
7. **Note** that specifically reflecting an expectation for regional spread in the objectives of the Infrastructure Fund will strengthen these mitigations, and may better reflect Minister's expectations; Noted
8. **Agree** to the include as a sub-point in the objective for the Infrastructure Fund: "The infrastructure investment will ... be spread across multiple regions and include both large urban areas and regional centres"; Agree / Disagree
9. **Note** officials have not been directed to make changes to the Cabinet paper on any other matters (including with respect to large scale projects); Noted
10. **Approve** the attached Cabinet Paper to be lodged for consideration by Cabinet on 31 May 2021; Approved
11. **Forward** this briefing to the Prime Minister; Forwarded
12. **Forward** this briefing to the Associate Minister of Housing (Māori Housing). Forwarded



Hilary Eade
Kaiaki

27 / 05 / 2021

Hon Dr Megan Woods
Minister of Housing

..... / /

Background

3. The paper, *Advancing Housing Supply and Affordability Package* was considered by the Cabinet Business Committee (CBC) on 24 May 2021. The paper is scheduled to be considered by Cabinet on 31 May 2021.
4. We understand that following consideration by CBC there remained some outstanding issues relating to the proposed Infrastructure Acceleration Fund (IAF), the competitive component of the broader Infrastructure Fund.
5. Following subsequent discussions with your office, the Prime Minister's Office and the Department of the Prime Minister and Cabinet, two broad areas were identified where further advice was required:
 - a. The role of Kāinga Ora in the IAF, in particular whether it is best placed to administer the fund, and whether its Board should serve as the advisory group as currently proposed;
 - b. Ensuring that the IAF provides for appropriate regional spread and avoids undue concentration in one or more areas.
6. This briefing provides advice on these issues and includes an updated draft Cabinet paper with very minor changes reflecting this advice.
7. The only substantive change is an amendment to one of the objectives of Infrastructure Fund to reflect an expectation of regional spread (paragraph 31 in the attached Cabinet paper), discussed below in paragraphs 31 to 37.
8. We have included a minor change in the attached draft to make clearer the role of the cross agency reference group in assuring the committee considers alignment with other infrastructure funding processes such as Three Waters Reform incentive funding and land transport funding (paragraph 103 in the attached Cabinet paper).

Role of Kāinga Ora in delivering the IAF

Administration of the Infrastructure Fund

9. The Cabinet Paper *Increasing housing supply and improving affordability for first home buyers and renters* considered by Cabinet on 15 March 2021, indicated that "Kāinga Ora will administer the Infrastructure Fund, on behalf of the Crown", however no agreement to this was sought from Cabinet at that time.
10. Administration of the IAF broadly includes:
 - a. Producing and releasing fund documentation (such as requests for proposals);
 - b. Leading engagement with potential applicants, including answering queries as well as proactive engagement through Urban Growth Partnerships and place-based partnerships;
 - c. Receiving, analysing and assessing proposals to support an advisory group;
 - d. Leading negotiation on behalf of Ministers;
 - e. Contracting following funding decisions by Ministers; and
 - f. Ongoing contract management and monitoring of projects.
11. HUD officials considered two primary factors when considering the entity best placed to administer the Infrastructure Fund:
 - a. Operational capability – the entity should ideally be an operational entity with sufficient scale and experience to be reliably able to establish and operate the Infrastructure Fund quickly, effectively and in line with policy direction
 - b. Alignment with agency role – the primary purpose of the Infrastructure Fund is enabling housing, although it does this through infrastructure provision. Given the

primary focus, the entity administering it would ideally be a housing-focused entity, although an infrastructure-focused entity would also be reasonable.

12. On this basis, officials considered that Kāinga Ora represented the best option. It has a sufficient scale of operational expertise and the focus of the IAF aligns well with Kāinga Ora's housing focus and its statutory functions in particular:
 - a. 13(1)(e): to provide ... services related to housing as agent for the Crown or Crown entities;
 - b. 13(1)(g)(i): to provide a leadership or co-ordination role in relation to urban development, including by supporting innovation, capability, and scale within the wider urban development and construction sectors.
13. Alternative options do not align as well with these factors. HUD lacks the operational scale to be able to deliver as quickly. The Infrastructure Commission has moderate alignment, but lacks a housing focus and has no track record of operational delivery. Crown Infrastructure Partners (CIP) has recently administered funds relating to infrastructure on behalf of the Crown, but also lacks a housing focus. Giving CIP the role of administering the IAF would create its own (likely more complex) conflict of interest challenges relating to its role in facilitating investment under the Infrastructure Funding and Financing Act.

Kāinga Ora's operational capacity

14. Kāinga Ora advises that it recently completed a comprehensive reshaping intended to ensure that it is able to deliver on its urban development mandate. A core feature of this reshaping has been to structure delivery on a regional basis. The shaping exercise involved an increase in staff and new capacity and capability, particularly in the urban development and Māori and stakeholder partnership and engagement areas. The Budget 2021 initiative: *Kāinga Ora Sustainable Funding* funds some of these new activities. The enhanced regional approach is designed to ensure that relationships with, and input from iwi, Māori, and local stakeholders (including local authorities, community groups and developers) are strengthened and grown.
15. More specifically, Kāinga Ora has already done considerable planning to prepare for operationalising the fund, including adding the necessary capacity to deliver the IAF. This has included recruiting staff and service providers with experience in comparable infrastructure funding processes such as the shovel ready initiative.
16. HUD's observations to date point to Kāinga Ora committing both the senior- and Board-level attention and the operational resourcing required to be successful, even in advance of any additional operational funding being provided. Kāinga Ora appears to be making good progress in being able to deliver the IAF, subject to continued focus, further recruitment and adequate administration funding being available.

Engagement with developers

17. The IAF initiative will provide an excellent opportunity for Kāinga Ora regional based teams to strengthen their relationships with the Local Authorities and key developers. It provides an opportunity for practical engagement between Kāinga Ora and developers on projects where Kāinga Ora is not directly involved, something that there has been relatively little opportunity for in the past. Strengthening relationships with a wide range of developers is important as Kāinga Ora works to give effect to its new leadership and coordination role in urban development, which includes enabling and supporting housing and urban developments led by others. This requires a very different approach to its role in contracting builders to deliver public housing for itself.

Advisory role for the Kāinga Ora Board

18. The role of advising Ministers on which investments to make can be separated out from the administering entity. Nevertheless, the administering entity would still need to service that advisory group, including through analysing proposals.

19. The Cabinet Paper considered by CBC included a recommendation that a committee of the Kāinga Ora Board be responsible for advising decision-making Ministers (the Ministers of Finance and Housing) on investments for the IAF, subject to the Board establishing a committee that has the following experience represented (with independent members appointed if needed):
- a. Housing development;
 - b. Māori housing;
 - c. Infrastructure delivery;
 - d. Local government; and
 - e. Finance and risk management.
20. The key strengths of the Board having this role are:
- a. relative efficiency;
 - b. maintaining accountability within Kāinga Ora as one entity; and
 - c. supporting alignment with other Kāinga Ora initiatives such as the Kāinga Ora Land Programme and the s 9(2)(f)(iv)
21. We also considered the options of a senior officials group and a Ministerially appointed independent advisory panel. A summary of our previous assessment of all three options is provided as annex one.
22. There are some risks associated with giving a Kāinga Ora Board committee this role. The table below identifies the risk and the mitigations proposed in the paper considered by CBC to address these risks.

Risk	Mitigations currently in the Cabinet Papers
<p>Misalignment with broader government infrastructure investment processes or Government priorities in advice</p>	<ul style="list-style-type: none"> • Establish a cross-agency reference group¹ to provide input to the Kāinga Ora Board committee on alignment with broader infrastructure investment processes (e.g. Three Waters Reform and Shovel-Ready) and priorities. • Require the committee to describe in its advice to Ministers how input from the reference group has informed their advice with respect to specific proposals.
<p>Focus on organisational priorities: Advice reflects Kāinga Ora organisational priorities rather than Fund policy intent. A particular risk is that the committee gravitates towards lower-risk (but lower impact) investments.</p>	<ul style="list-style-type: none"> • Decision making Ministers' expectations of the committee are clearly communicated through a letter of expectation to the Chair of the Kāinga Ora Board. • Monitoring of Kāinga Ora by HUD to ensure Ministers' expectations are met (but not providing competing or second-opinion advice on individual proposals in most cases).

¹ Including Treasury, HUD, Department of Internal Affairs, Ministry of Transport, Waka Kotahi, Infrastructure Commission and Crown Infrastructure Partners.

Risk	Mitigations currently in the Cabinet Papers
Conflict of interest: Where Kāinga Ora has an interest in land that will benefit from a proposal, there may be a real or perceived conflict of interest.	<ul style="list-style-type: none"> • HUD (and any other entity identified by decision-making Ministers) to provide second opinion advice to Ministers on proposals considered by the committee where Kāinga Ora has a material conflict of interest.

23. We consider that these mitigations adequately address the risks associated with the committee acting as the advisory body, while largely maintaining the advantages of the approach.

Possible additional mitigation: requiring independent membership on the committee

24. Officials have identified one further adjustment that could further mitigate the risks identified. As currently proposed, the Kāinga Ora Board having this role is subject only to certain skill-sets being included on the relevant committee, with independent members added if necessary to meet this.
25. Alternatively, Cabinet could agree to this role subject to the committee including at least two 'independent members' (non-Kāinga Ora Board members). This would ensure there were voices on the committee from outside Kāinga Ora's Board, which could mitigate the actual or perceived risks of excessive focus on Kāinga Ora organisational priorities or conflicts of interest. In the very unlikely event that the Board was unwilling to establish such a committee, Cabinet would need to select an alternative approach.
26. Ministers are not able to appoint the independent members. Under the Crown Entities Act, only the Board may establish committees and appoint members to them. As previously advised, it is also not appropriate that they be public servants. If Ministers prefer to directly appoint individuals to advise them on investment decisions, this would represent a shift to the independent advisory group model.
27. It is difficult to know how much of an impact the provision of independent members would be given the independent members would be appointed by the Board and the committee would most likely still be made up of a majority of Kāinga Ora Board members. However, it could provide some additional risk mitigation.
28. On balance, we consider this provision a viable option if Ministers wish to have greater independence in the advisory body, but do not consider it necessary.
29. We are seeking your indication on whether you wish to include this additional mitigation. The attached updated Cabinet Paper does not currently reflect this, but officials have prepared a version that does which can be provided at any time.
30. Beyond this potential requirement for independent members, we have not identified any further risk mitigations we could put in place that would not, at the same time, reduce the benefits of the proposed approach.

Ensuring regional spread

31. We understand Ministers wish to ensure there is sufficient regional spread across the Infrastructure Fund and including with respect to the IAF. Related to this is the current proposal that potentially over half of all funding be committed to delivering the Auckland-based large scale projects.
32. Kāinga Ora, drawing on information within Kāinga Ora, HUD and Crown Infrastructure Partners, has undertaken a brief scanning exercise of known projects support operational planning (rather than identifying specific projects to consider for funding). While the information already to hand is limited in detail, it points to there being potential projects across a number of the main urban areas.
33. This is complemented by a brief survey undertaken by Local Government New Zealand on potential infrastructure projects, focusing on areas outside of large centres (where central government has less visibility). While also limited in detail, the survey did identify a good

range of potential projects in smaller centres many of which Kāinga Ora will likely receive expressions of interest for.

34. However, it is difficult to know what the spread of *quality* proposals will be until the process begins and there is some risk of the projects that perform best against the criteria being concentrated in a smaller number of places.
35. There are currently three mitigations built into the process to reduce or manage this risk:
 - a. Criteria designed not to disadvantage smaller centres - The first factor for assessment under the 'Housing Benefits' criterion refers to additional dwellings *relative to demand* in a place. This seeks to ensure that smaller centres aren't disadvantaged purely because they are small; the criteria rewards projects that are impactful relative to local conditions.
 - b. Expectations letter to the advisory committee - The Cabinet paper notes that the Minister of Housing will set out her expectations to the Kāinga Board Chair on the approach taken by the Board committee in its advisory capacity. This letter can direct Kāinga Ora to have regard to regional spread in its advice. The committee will still have primary regard to the criteria, but if the funding only the highest scoring proposals would lead to strong regional concentration, the committee could identify alternative packages that provide for greater regional spread for Ministers to consider.
 - c. Two-stage process and option for additional rounds – The Cabinet Paper proposes that the funding may be allocated over additional rounds if necessary. One factor that may lead Ministers to choose to not allocate all funding would be insufficient regional spread.

Because the process is in two stages, it should be relatively clear after the first stage as to whether there is likely to be sufficient regional spread, this would be well in advance of final funding decisions. Ministers will be informed of the mix of projects advanced to the second stage and this can inform early consideration as to whether a second round is likely to be required (whether for regional spread concerns or some other reason).
36. We also recommend that the objective for the Infrastructure Fund be amended to point to the importance Ministers place in achieving regional spread. Making this more explicit will provide stronger grounding for any direction setting to the advisory committee referred to in 'b' above and to the justification of adding a further funding round, if necessary, as referred to in 'c' above.
37. We propose an additional sub-point be added to the Infrastructure Fund: "The infrastructure investment will ... be spread across multiple regions and include both large urban areas and regional centres."

Consultation

38. Kāinga Ora provided input into the discussion of their operational readiness to deliver the IAF.

Next steps

39. We recommend you forward this briefing to the Prime Minister and the Associate Minister of Housing (Māori Housing).
40. We have attached a draft Cabinet paper.
41. Subject to your direction, an updated paper will be lodged for consideration by Cabinet on 31 May 2021.

Annexes

42. Annex A: Previous assessment of options for an the advisory body for the IAF
43. Annex B: Final Draft Paper, *Advancing the housing supply and affordability package*.

Annex A: Previous assessment of options for the advisory body for the Infrastructure Acceleration Fund

Option	Strengths	Weaknesses
<p>Senior officials group: primarily tier-two officials from a number of relevant agencies, likely chaired by the Chief Executive of Kāinga Ora. Agencies would likely include housing and infrastructure provision agencies.</p>	<ul style="list-style-type: none"> • Expediency • Certainty of meeting objectives and Ministers' expectations • Support joint-up government approach 	<ul style="list-style-type: none"> • Lower accountability through Kāinga Ora • Likely to lack subject matter expertise and experience
<p>Independent advisory group: panel of 3-6 members appointed by you following agreement by the Cabinet Appointments and Honours Committee (APH). The group would require expertise in housing development, Māori housing, infrastructure delivery, local government, finance and risk management.</p>	<ul style="list-style-type: none"> • Independence • Greater likelihood of innovative perspectives • Ability to attract subject-matter experts 	<ul style="list-style-type: none"> • Time to identify, assess and appoint members could delay process • Will likely be conflicts of interest for many qualified candidates • Detachment from Kāinga Ora could create accountability issues
<p>Committee of the Kāinga Ora Board: including independent members from HUD and the Treasury and other independent members as needed to ensure necessary skills are represented: housing development, Māori housing, infrastructure delivery, local government, finance and risk management.</p>	<ul style="list-style-type: none"> • Strong accountability through Kāinga Ora • Administratively straightforward • Alignment with other Kāinga Ora investments 	<ul style="list-style-type: none"> • Conflict of interest for investments relating to Kāinga Ora land holdings • May lack subject matter expertise • Kāinga Ora organisational priorities may conflict with Fund objectives