

16 March 2021

John Ryan
Controller and Auditor-General
Office of the Auditor-General
PO Box 3928
WELLINGTON 6140

Dear Mr Ryan

I write to you in relation to the agreement reached on future of Ihumātao announced by the Government on 17 December 2020 and would request that you inquire, under section 18 of the Public Audit Act 2001, the decision to use the Land for Housing Programme to purchase \$29.9 million worth of land at the Ihumātao site.

I believe that this is an issue that reaches the threshold for an inquiry under section 18 of the Public Audit Act.

I note that [the Auditor General's comments on inquiries describes the Office's role](#) as:

...one to investigate and to report our findings and our opinion. Our scrutiny and reporting helps hold public entities to account, and we can refer issues to other agencies for action.

The issue at hand is one of the Government's Land for Housing Programme potentially using its publicly funded mandate inappropriately. Moreover, the programme sits within an important and highly public housing agenda for the Government and there is significant public interest in the way that it operates. The public needs to be assured that significant sums of taxpayer money is being managed appropriately.

At issue is the use of the \$29.9 million from the Land for Housing Programme.

[In your response to Hon Judith Collins' letter in May 2019](#) raising concerns over the operations of Kiwibuild, you provided an assessment of the Land for Housing Programme which stated:

Land for Housing programme

The assessment of land for housing follows a well-defined process. There are two clear stages: assessment of the land for entry into the programme; and identification of an appropriate development partner. We reviewed two examples of land packages brought into the programme and the process for identifying land, assessing its suitability, and for identifying and contracting a development partner. From an audit point of view, we found the process to be robust.

In the case of the agreement announced on 17 December 2020, the processes of the Land for Housing Programme have been used in a way which, I would request you inquire into.

Relevantly, in an Official Information Act Request provided to me by the Treasury, advice was provided that lays out the key issues at hand.

The advice, which is attached, argues that using funding from the Land for Housing Programme was not advised because the decision appears to be at odds with the proposed approach:

If Cabinet wants the Crown to purchase the land at Ihumātao, we do not recommend doing so through the Land for Housing Programme.

Land for Housing is a KiwiBuild programme focussed on rapidly providing new housing through a recycled capital model. This appears to be at odds with the proposed approach to develop a Memorandum of Understanding across several parties regarding how future use and development will be agreed.

Moreover, Treasury noted fiscal implications of a decision to proceed with the approach of using the Land for Housing Programme to fund the acquisition of land:

The paper states that any financial implications would be managed through the existing appropriations for the Land for Housing Programme. We do not agree that current and possible financial implications of the proposal can be managed through the existing Land for Housing appropriations.

The rationale provided clearly sets out the problem of the decision being in conflict with the determined operations of the Land for Housing Programme:

This is because the proposal is at odds with the Land for Housing Programme's intent, operating model, and scopes of related appropriations.

There is a risk that Audit considers the expense does not fit within the appropriation scope and is unappropriated spend.

If agreement does not occur within the recycled capital window in the Land for Housing model (10 years), additional funding will be required.

If part or all of the future use and development agreed does not fit within the Land for Housing appropriation scope or recycled capital model, additional funding will be required.

Finally, Treasury did provide an alternate option that does not appear to have been accepted by Cabinet:

If Cabinet agrees to progress the proposal, we recommend tabling alternative recs to create a \$30.0m contingency charged against the between Budget contingency and authorise the Minister of Finance and te Minita Whanaketanga Māori to create further appropriations in Vote Māori Development to draw funding down to on purchase.

I have attached a complete copy of the Official Information Act Request I have received to this letter for your information.

Yours sincerely

A handwritten signature in blue ink, appearing to read "David Seymour".

David Seymour
Leader, ACT New Zealand