

Chair  
Social Wellbeing Committee

**Strengthening Housing New Zealand's focus on the needs of tenants: Response to the methamphetamine contamination report and embedding its social objectives**

1. This paper:
  - 1.1. discusses Housing New Zealand's report into its response to methamphetamine contamination in its properties
  - 1.2. outlines the key conclusions of the report
  - 1.3. outlines proposals for assistance to tenants affected by contaminated properties; and
  - 1.4. seeks agreement to strengthen the focus of Housing New Zealand Corporation on the needs of tenants by:
    - 1.4.1 removing the word 'Corporation' from Housing New Zealand's name to provide a clear signal to tenants and the public about the change in focus;
    - 1.4.2 embedding social objectives in legislation that will strengthen Housing New Zealand's social mandate; and
    - 1.4.3 removing the requirement for Housing New Zealand to return surpluses to the Crown to provide clear signals about ongoing investment.

**Executive Summary**

2. Housing New Zealand is the Government's biggest asset in delivering better housing outcomes for vulnerable New Zealanders. On forming a Government, we set out to make three key changes to state housing:
  - 2.1 Stopping the large-scale sales of state houses and committing to substantially increasing the number of state houses;
  - 2.2 Focusing Housing New Zealand on housing people in need, rather than paying a dividend; and
  - 2.3 Strengthening Housing New Zealand's focus on the needs of tenants.
3. We announced the end of the sale of 2,500 state houses in Christchurch in December 2017. Legislative change is now required to make Housing New Zealand operate more like a public service with a focus on housing people in need, in order to fulfil our other key state housing objectives.

4. Since the beginning of the year, officials have been working on developing a set of proposals to guide Housing New Zealand to our objective of becoming a world-class landlord focused on tenant wellbeing. This paper seeks your agreement to:
  - 4.1 remove the word 'Corporation' from Housing New Zealand's name;
  - 4.2 embed objectives in legislation to strengthen Housing New Zealand's social mandate; and
  - 4.3 remove the requirement for Housing New Zealand to return surpluses to the Crown.
5. I intend to submit a bill to enact these changes once policy decisions on the form and powers of the Urban Development Authority have been made as the options currently being considered for the form of the Urban Development Authority may affect Housing New Zealand.
6. Separately, in December 2017 I commissioned a report by the Chief Science Advisor (CSA), Professor Sir Peter Gluckman, to undertake a review of all the available scientific and medical evidence on the risks to occupants of homes in which methamphetamine has been used or manufactured. Sir Peter's report, *'Methamphetamine contamination in residential properties: Exposures, risk levels, and interpretation of standards'*, was publicly released on 29 May 2018.
7. A key conclusion of the CSA's report was that methamphetamine testing should only be triggered where previous or current methamphetamine lab activity or very heavy use is suspected. If methamphetamine is detected at levels below 15 µg/100cm<sup>2</sup>, it advises that there is little cause for concern unless there are reasons to suspect manufacturing activity.
8. On 12 June 2018 I asked Housing New Zealand to produce a comprehensive report into its policies, processes and the outcome around methamphetamine contamination in its properties.
9. Housing New Zealand has produced a comprehensive report (the report) into its response to methamphetamine contamination in its properties. The report outlines the development of its policies and processes over time, the outcomes for its tenants and properties, and a programme to address any unfairness that has been caused to its tenants.
10. The report comes to a number of conclusions, importantly that Housing New Zealand's policies and procedures created adverse outcomes for some tenants.
11. Housing New Zealand has proposed a programme to assist tenants who have been negatively affected by its methamphetamine contamination policies. It will include a discretionary grant, and may include other actions such as re-housing some former tenants and cancelling relevant debt and other associated financial harm caused.
12. As part of the Government's response to the report, I seek Cabinet's agreement to release the proposed social objectives and communicate our intention to incorporate them into the Housing Corporation Act 1974 (the Act) and a range of consequential amendments. As the Minister responsible for Housing New Zealand, I have previously submitted a Legislation Bid for 2018 with respect to the Housing Corporation (Public Housing) Amendment Bill (the Amendment Bill).

## **Methamphetamine contamination**

13. *“Methamphetamine contamination: Housing New Zealand’s response”* is attached in Appendix A.
14. The report discusses Housing New Zealand’s previous approach to methamphetamine contamination in its properties. The purpose of the report was to identify:
  - 14.1 whether, and to what extent, any tenants were unfairly treated;
  - 14.2 why Housing New Zealand applied the procedures it did;
  - 14.3 what procedures were in place to determine and review Housing New Zealand’s policies; and
  - 14.4 what assistance may be appropriate to address any unfairness that may have occurred to tenants.

### *Findings*

15. As a result of the report Housing New Zealand has reflected on its policies and processes of the past and has come to the following conclusions:
  - 15.1 Housing New Zealand was wrong to adopt a zero-tolerance approach to illegal activity in its tenancies.
  - 15.2 In determining whether houses were safe to live in, Housing New Zealand took a conservative and risk adverse approach to health risks, and from 2014, applied the existing Ministry of Health guidelines for instances of both methamphetamine manufacture and use in its properties. This was despite the Ministry of Health guidelines being intended solely for manufacture.
  - 15.3 While Housing New Zealand sought scientific opinion on this issue in 2016, it chose not to take a leadership role to investigate the issue more deeply itself.
  - 15.4 In hindsight, it was wrong for Housing New Zealand to use the 2010 Guidelines in this way.
  - 15.5 In some individual cases, Housing New Zealand failed to follow the rules of natural justice.
  - 15.6 In some individual cases, Housing New Zealand failed to take sufficient care in examining methamphetamine test results before seeking to end a tenancy.
  - 15.7 Housing New Zealand needs to continue to improve its policy development and implementation to ensure that it takes appropriate care when interacting with tenants.
  - 15.8 Housing New Zealand’s Board must have greater involvement and oversight as key operational policies are developed.
  - 15.9 System improvements are required to ensure that important information relating to tenancies and outcomes for tenants is captured and readily available in Housing New Zealand’s core systems.

### *Policies and processes and outcomes*

16. The report discusses its policies and processes over time and the key factors that influenced their development that have directly and indirectly driven its response to methamphetamine contamination in its properties. Key factors included providing a safe and healthy property for tenants, a safe working environment for staff, property stewardship, and managing antisocial behaviour and illegal activity.

17. Housing New Zealand analysed the outcomes for its properties and tenants, which included the number of properties that were tested and the results of those tests, housing outcomes for tenants affected by contaminated properties, and by what means tenancies were ended. The report summarises a number of case studies of individual tenants, and describes their experiences with Housing New Zealand.

*Assistance to affected tenants*

18. Housing New Zealand will implement an assistance programme to support affected tenants and their families by seeking to ease the hardship caused to them through the application of its earlier methamphetamine and zero-tolerance policies.
19. The assistance programme will target tenants whose tenancies were tested for methamphetamine contamination whether or not they were rehoused in another Housing New Zealand home, and their tenancies were ended between 1 July 2013 and 1 July 2018.
20. The main element of the assistance programme is payment of discretionary grants to affected tenants, which is consistent with payments made to tenants in the past where Housing New Zealand believed that the tenant was not responsible for the contamination. These grants are likely to be:
  - 20.1 \$2,000 per tenancy for costs associated with moving
  - 20.2 \$1,500 per tenancy to replace household items, plus an additional \$500 per bedroom of the property.
21. However, Housing New Zealand will assess each case individually and retain discretion to provide additional assistance in exceptional circumstances. In dealing with affected tenants, Housing New Zealand will urge on the side of doing the right thing rather than a process orientated check-box exercise. Some tenants who were re-housed by Housing New Zealand have already received assistance and therefore will be ineligible for additional grants.
22. Other forms of assistance will focus on activities that Housing New Zealand can offer through its operations, including:
  - 20.1 housing affected tenants who are on the social housing register
  - 20.2 refunding to tenants any methamphetamine related debt that has been paid to Housing New Zealand
  - 20.3 formally apologising to tenants who have experienced poor outcomes that acknowledges the hardship they have experienced.
23. An indicative cost of the assistance programme is \$4.5 million. This includes discretionary grants, and a refund of payments received from tenants for methamphetamine-related debt.
24. Housing New Zealand will work closely with the Ministry of Social Development (MSD) to cancel any recoverable special needs grants for affected tenants. Other forms of related debt identified by MSD (such as bond and rent advances) will be assessed on a case-by-case basis.
25. Housing New Zealand is investigating establishing a fund to provide addiction and rehabilitation services, however this is in the preliminary planning stages.
26. A dedicated team is being established to implement this assistance programme. The team will, where possible, directly contact affected tenants, and be responsible for ensuring there are easily accessible channels for any person to contact Housing New Zealand to discuss

their experience in relation to methamphetamine contamination. It is expected that this programme will begin within the next two months. Timeframes for how long the programme will run has yet to be determined. It is the intention, however, that the programme end after two years.

#### *Next steps*

27. Housing New Zealand is currently developing a new drug policy. It will cover drug use, manufacture and supply in its properties, in line with the current sustaining tenancies approach. Housing New Zealand will support tenants who suffer from the health effects of drug addiction by connecting them with the appropriate drug rehabilitation services, while keeping them in their homes wherever possible. If tenants are required to move when their house is contaminated above the new threshold recommended in the CSA's report, they will be moved to another suitable Housing New Zealand home.

### **Renaming Housing New Zealand and embedding social objectives**

28. In response to the report, I propose to announce our intention to strengthen Housing New Zealand's social mandate by embedding social objectives in the Act. The existing arrangement means that Housing New Zealand can receive instructions that are inconsistent over time, undermining the clarity of purpose that is needed for it to deliver on the needs of its tenants.

29. Although these proposals were being worked on since the start of the year, the report notes that the previous Government's "*clear expectation was for Housing New Zealand to focus on its core functions as a landlord, with other agencies providing social services for tenants as required*" contributed to Housing New Zealand's response to methamphetamine contamination in their properties. The report states:

*In the Output Agreement between the Crown and Housing New Zealand Corporation in 2011/12, the Output Class 'Tenant Support' was limited to accommodation matters. This confirmed the shift from Housing New Zealand's wider social mandate to pulling back Housing New Zealand's activities to align with its core functions of tenancy and asset management. While this was occurring, changes were made to the social allocation system in 2011, which further restricted eligibility for state housing.*

30. The work underway to ensure Housing New Zealand strives to be a world-class landlord focused on tenant wellbeing is essential to the Government's response to the report. These proposals, along with sustaining tenancies and the more compassionate approach to pets, demonstrate our commitment to stable and secure tenancies and our focus on tenant wellbeing.
31. First, I propose to strengthen Housing New Zealand's social mandate by embedding the particular Crown social objectives Housing New Zealand is to meet in the Act. At present, the Act includes a set of overarching objectives, that will be retained, but the supporting social objectives are set on an annual basis through a letter of social objectives from the Minister.
32. Embedding the social objectives<sup>1</sup> in legislation will provide increased transparency for tenants and the public over the services Housing New Zealand provides, and provide increased certainty and stability of objectives needed to enable Housing New Zealand to take a more strategic approach to delivering and measuring itself against those objectives.

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<sup>1</sup> This is not intended to be a list of all the Crown's social objectives in relation to housing. The Crown has other social objectives in relation to housing it is pursuing (for example in the context of provision of affordable housing through KiwiBuild).

33. I propose eight social objectives be set in legislation, with a ninth enabling additional matters to be addressed which may arise. Although the final wording may be revised through the drafting process, these are based on the social objectives I have already issued to Housing New Zealand for the 2018/2019 year to ensure consistency:
- 28.1 Providing good quality, warm, dry, and healthy rental housing for those who need it most.
  - 28.2 Assisting tenants to sustain a tenancy; supporting tenants to be well-connected to their communities, to lead lives with dignity, and the greatest degree of independence possible.
  - 28.3 Being a fair and reasonable landlord, treating tenants and their neighbours with respect, integrity and honesty.
  - 28.4 Building and leasing additional houses in order to meet social need and fill housing shortages where they occur.
  - 28.5 Managing its housing stock prudently, upgrading and managing the portfolio to ensure it remains fit for purpose.
  - 28.6 Assisting neighbourhoods and communities in which it operates housing to flourish as cohesive, safe and prosperous places to live.
  - 28.7 Working with other agencies to achieve housing policy goals and improve tenant welfare.
  - 28.8 Providing services and products to support people accessing affordable housing.
  - 28.9 Other social objectives notified by the Minister in writing.
34. I propose that the annual process for setting social objectives move from being mandatory to being an optional process where the Minister may notify Housing New Zealand of any supplementary or near term social objectives. For the avoidance of doubt, the overarching objectives and social objectives embedded in the Act will have precedence over social objectives notified in writing.
35. While Housing New Zealand will still need to produce and report against a Statement of Performance Expectations, and there will still be an annual Letter of Expectations, the direction of these statements will be more consistent from year-to-year due to the embedded social objectives.
36. Second, I propose removing the word Corporation from Housing New Zealand's name, and changing the name of the Act. While amending the name of Housing New Zealand is a relatively minor change, this will send a clear signal to existing tenants and the public about the shift in focus that we are driving throughout the public housing system. With the broader changes that we are making, Housing New Zealand will begin to operate more like a public service than a corporation. It is appropriate that the name of the organisation reflect the culture change that we are seeking.
37. There are no legal implications arising from a change to Housing New Zealand Corporation's name provided that: the legislation effecting the name change has a provision that makes it clear that a reference to Housing New Zealand Corporation is to be read as a reference to Housing New Zealand; and the legislation also addresses land titles, contracts and other commercial arrangements affected by the change in name. In respect of existing legislation and regulations, there will be numerous consequential legislative amendments changing the name of Housing New Zealand Corporation to Housing New Zealand.

## **Ending the requirement for Housing New Zealand to return surpluses**

38. At present, Housing New Zealand must return any surplus to the Crown, unless the Minister has specifically authorised Housing New Zealand to retain it. Surplus is defined in legislation as any money left over after it has provided for matters that, in the Minister's opinion, are necessary for the efficient and effective conduct of operations.
39. As with having objectives defined by the Minister from year-to-year, this requirement to return any surplus reduces certainty and clarity of purpose for Housing New Zealand.
40. Housing New Zealand has an ambitious building and renewal programme over the next decade and will need to reinvest any surplus should it arise. By changing the presumption that a surplus will be returned, to a presumption that it will be retained, we can:
  - 35.1 reinforce the importance of supply of public housing over any other uses of that money; and
  - 35.2 provide for increased financial flexibility to Housing New Zealand in setting its financial strategy.
41. Under the Crown Entities Act 2004, the Minister of Finance will still have the power to require that a surplus be returned. However, the default will be that Housing New Zealand will retain any surplus funds.

## **Consultation**

42. The proposed legislative changes have been prepared in consultation with Housing New Zealand, the Ministry of Business, Innovation and Employment, the Ministry of Social Development, and the State Services Commission.

## **Financial Implications**

### *Methamphetamine response*

43. Housing New Zealand proposes to pay affected tenants out of its operational budget. However, the cost of an assistance programme has not been confirmed. This will be confirmed after the assistance programme team has been established.

### *Legislative changes*

44. There will be a very minor financial cost to Housing New Zealand effecting the name change in respect of branding. This cost can be mitigated by providing sufficient notice of the change such that supplies of stationary and other consumables can be managed.
45. Removing the requirement for Housing New Zealand to return any surplus funds could have financial implications. However, this would only occur if Housing New Zealand's programme of building and renewal was minor enough to not require significant reinvestment.
46. In practice, building enough state houses to meet demand and upgrading existing stock to a standard that is warm, dry and healthy will mean reinvestment is likely to be required for a decade or more. In the event that this changes (for example, as the result of fundamental shifts in the wider housing market), Ministers will still have the ability to request that a surplus be returned.
47. Accordingly, there are no impacts expected on forecast OBEGAL or net debt because of the proposed legislative change.

## **Human Rights**

48. The report does not raise any Bill of Rights Act 1990 or Human Rights Act 1993 issues.

## **Legislative Implications**

49. Housing New Zealand is referenced widely in legislation:

44.1 Reference to “Housing New Zealand Corporation” occurs in 54 Acts with 154 entries (of which 26 entries are in the Housing Corporation Amendment Act 2001).

44.2 Reference to “Housing Corporation” occurs in 63 Acts with 458 entries (of which 163 entries are in the Housing Corporation Act 1974, and 28 are in each of the Housing Restructuring Act 1992 and the Housing Restructuring and Tenancy Matters Act 1992).

50. It is expected that these cross-references can be included by an amendment that clarifies these references still apply.

51. There are also 10 Acts (26 entries) that include the term “Housing New Zealand Limited”.

## **Regulatory Impact Analysis**

52. The Regulatory Quality Team at the Treasury has determined that the regulatory decisions sought in this paper are exempt from the requirement to provide a Regulatory Impact Assessment as they are likely to have minor impacts on businesses, individuals and not-for-profits,

### *Name change*

53. Provided that drafting and provisions related to interpretation are managed appropriately, there is no material cost impact from changing the name of Housing New Zealand.

### *Social objectives*

54. Embedding social objectives within the Act has the effect of fixing expectations of what Housing New Zealand must deliver, and making them more difficult to change. In practice, the removal of a mandatory process of setting objectives for Housing New Zealand through the letter of social objectives each year relinquishes a degree of responsiveness to Ministerial control in favour of setting a fixed direction for the organisation.

### *Exemption from returning surpluses*

55. Given Housing New Zealand’s current programme of building and asset renewal, no immediate impact is expected from an exemption from returning surpluses. Surpluses have not been required to be returned for the last two years, and surpluses are likely to be needed for reinvestment for the foreseeable future. However, this could impact on future Governments in the event of Housing New Zealand having a smaller programme of capital works relative to its earnings. This impact is mitigated by the Crown Entities Act 2004, which allows the Minister of Finance to require that Housing New Zealand return a surplus if requested.

## **Gender Implications**

56. The report has no direct gender implications.

## **Disability Perspective**

57. The report has no direct disability implications.

### **Publicity**

58. Methamphetamine contamination in Housing New Zealand properties is a topic of high public interest and will likely attract a significant amount of attention. Housing New Zealand will manage publicity resulting from the release of its report, and has established a comprehensive stakeholder engagement and media strategy.

### **Proactive Release**

59. I intend to publicly release Housing New Zealand's report on 20 September 2018. The report is expected to generate significant media interest.

### **Recommendations**

It is recommended that the Committee:

- a. **note** that Housing New Zealand has produced a comprehensive report "Methamphetamine contamination: Housing New Zealand's response"
- b. **note** that the report outlines the development of its policies and processes over time, the outcomes for its tenants and properties, and to address any unfairness that has been caused to its tenants
- c. **note** Housing New Zealand's reflections on its policies relating to methamphetamine contamination
- d. **note** that Housing New Zealand proposes an outcomes based approach to help tenants recover from their experiences and to ease the hardship caused as a result of its policies
- e. **note** that Housing New Zealand will work closely with other Government agencies, including the Ministry of Social Development (MSD), to reimburse affected tenants for repayments of recoverable special needs grants, and that other forms of related debt identified by MSD (such as bond and rent advances) will be assessed on a case-by-case basis
- f. **note** that the report will be made public on 20 September 2018
- g. **note** our commitment to strengthen Housing New Zealand's social mandate and to remove the requirement that it return surpluses
- h. **agree** to embed social objectives, based on the objectives identified in this paper, in the Act
- i. **agree** to amend the Housing Corporation Act 1974, and other relevant legislation to remove the word Corporation from the name of Housing New Zealand Corporation
- j. **agree** to change the name of the Housing Corporation Act 1974 to the Housing New Zealand Act 2018.
- k. **agree** to amend the Housing Corporation Act 1974 to remove the requirement for Housing New Zealand to return any surplus
- l. **note** that no impact is expected on OBEGAL or net debt
- m. **note** the regulatory impacts

- n. **invite** the Minister for Housing and Urban Development to prepare drafting instructions for the Amendment Bill that can be issued to the Parliamentary Counsel Office to implement the proposals in this paper agreed to by Cabinet
- o. **note** that drafting instructions for the Amendment Bill will not be issued until after policy decisions on the form and powers of the Urban Development Authority have been made.
- p. **authorise** the Minister of Housing and Urban Development to make decisions on any minor or technical matters, consistent with the policy proposals in this paper, that may arise during the drafting process
- q. **note** that it is expected that this proposal can be implemented through amendments to the Housing Corporation Act 1974, with consequential amendments to other legislation

Authorised for lodgement

Hon Phil Twyford

Minister of Housing and Urban Development