



Te Ope Whakaora

SOCIAL POLICY AND PARLIAMENTARY UNIT

Working for the eradication of poverty in NZ

Social Housing Reform (Transaction Mandate) Bill Social Services Select Committee

The Salvation Army New Zealand, Fiji and Tonga Territory Submission

BACKGROUND

1. The Salvation Army is an international Christian and social services organisation that has worked in New Zealand for over 130 years. The Salvation Army provides a wide-range of practical social, community and faith-based services, particularly for those who are suffering, facing injustice or those who have been forgotten and marginalised by mainstream society.
2. We have over 90 Community Ministry centres and Churches (Corps) across the nation, serving local families and communities. We are passionately committed to our communities as we aim to fulfil our mission of caring for people, transforming lives and reforming society through God in Christ by the Holy Spirit's power¹.
3. The Salvation Army provides social housing, emergency accommodation, and supportive accommodation in several centres around New Zealand. Social housing is currently provided to over 300 mostly elderly tenants. There is a plan to expand our capacity to provide additional social housing over time.
4. This submission has been prepared by the Social Policy and Parliamentary Unit of The Salvation Army. This Unit works towards the eradication of poverty by encouraging policies and practices that strengthen the social framework of New Zealand.
5. This submission has been approved by Commissioner Robert Donaldson, the Territorial Commander of The Salvation Army New Zealand, Fiji and Tonga Territory.

¹ <http://www.salvationarmy.org.nz/our-community/mission/>

THE SALVATION ARMY PERSPECTIVE

- 6.** The Salvation Army has consistently engaged with the Government on its Social Housing Reform agenda and in relation to the social housing landscape in New Zealand. We have submitted previously to this Committee on the Social Housing Reform Bill and supported the policy direction offered in the Social Housing Reform Bill earlier this year.
- 7.** The Salvation Army supports this Bill in principle. However, the issue of exclusive administration by the Minister is of significant concern to The Salvation Army. As the Bill currently stands, the Minister will be given exclusive power to engage in the transfer, sale, or lease of Housing New Zealand Corporation (HNZC) properties. As with most wide discretionary powers, it is important to ensure there are suitable and efficient protections in place so that Ministers do not abuse these powers.
- 8.** In summary, the Salvation Army submits that the Bill be amended to include the following:

 - a. Sufficient accountability in relation to the Minister's broad powers;
 - b. A review of the Minister's transactional mandate;
 - c. Greater consultation with the HNZC Board or another appointed panel;
 - d. Better alignment with the existing objectives of the HNZC Board, including its social, environmental and fiscal responsibilities.

SPECIFIC RESPONSES TO AMENDMENT

Amendment to Housing Act 1955

Clause 4 and part 5A

Accountability of the Minister's powers

9. ***The Salvation Army submits that there is not sufficient accountability on the Minister's unfettered powers under this Bill.***
10. Clause 50H gives complete and unfettered power and authority to the Minister throughout social housing reform transactions. The Minister is also excluded from liability for all the agreements and transactions made. This raises serious concerns as to the accountability of the Minister in social housing dealings, but also as to the particular stock that is offered for sale. This could greatly affect the future work of HNZC if a deal does not prove sustainable for those concerned.
11. The only scope for checks and balances on the power afforded under clause 50H appears to be judicial review under clause 50R(6). This power affords the Minister significant power without apparent accountabilities.
12. It is noted by The Salvation Army that it was stated in the Government's own Regulatory Impact Statement (RIS) that the proposed "transaction mandate" given to the Minister has "few other precedents for this approach in other statutes."² The RIS compares this power to a "private law power of attorney".
13. It is of concern to The Salvation Army that such an approach has been applied to state housing, and The Salvation Army believes this power seriously undermines the governance of Housing New Zealand.
14. ***The Salvation Army recommends that these powers should not be exclusively the Minister's but should be used either in conjunction with the HNZC Board or another appointed panel.***

Review of mandate

15. ***The Salvation Army submits that the Bill contains insufficient review obligations of the Minister's powers.***
16. It is noted that the RIS also recommended that a requirement for a review of the Minister's powers be included in the Bill, and that this could be conducted in five years time. This would signal that such an extensive power is intended as an "exception to the rule" and that there will be a return to "business as usual" for the HNZC.³

² Regulatory Impact Analysis: Regulatory Impact Statement – Legislation to enable transfers of HNZC houses, at 8.

³ Regulatory Impact Analysis: Regulatory Impact Statement – Legislation to enable transfers of HNZC houses, at 9.

17. The Salvation Army does not see any evidence of such a review in the Bill as it currently stands. This is of concern given the extent of the Minister's proposed powers under the Bill.
18. ***The Salvation Army recommends that the Bill include a requirement for Ministers to review the on-going need for their transaction mandate.***

Consultation

19. ***The Salvation Army submits that the Bill contains insufficient consultation requirements.***
20. The rule of law encompasses the idea that the law should have safeguards against the abuse of wide discretionary powers. This Bill proposes to give the Minister wide powers to make dealings with whomever the Minister deems appropriate and at whatever price he or she believes suitable for the specific state asset. The Bill further entitles the Minister to conduct negotiations in secret until the contract is confirmed.
21. The HNZC Board's responsibilities include setting strategic direction, appointing a Chief Executive, monitoring performance and ensuring compliance with law. However, under the Bill as it stands, the Minister is given complete authority to override these responsibilities including compliance with law.
22. We recommend that the HNZC Board play a role in accountability for the Minister. As the Bill stands, the only requirement on the Minister is to "notify" the HNZC Board of its intention to enter into a transitional services contract, five days before doing so.
23. It is in the interests of transparency and democracy that the HNZC Board be consulted on the sale price negotiations and the particular housing stock pending sale. This ensures greater transparency, rather than allowing the Minister to engage in price negotiations for particular stock without any feedback or involvement from the HNZC Board.
24. The Bill purports to allow the Minister the power to enter into social housing transactions "for and on behalf of" the HNZC. The Salvation Army questions how this can be meaningful representation without any consultation requirements on the Minister in the Bill.
25. ***The Salvation Army recommends that the HNZC Board be consulted throughout dealings to ensure greater transparency without creating cumbersome barriers to the completion of transactions.***

Amendment to Housing Corporation Act 1974

Clause 7 - Objective of Corporation

- 26. *The Salvation Army submits that the new policy objectives of the Bill and the existing Housing New Zealand Corporation objectives have the potential to be inconsistent.***
27. The existing objectives of the HNZC under s 3B of the Housing Corporation Act 1974 are to promote social, environmental and fiscal responsibility. Specifically, the HNZC is required to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates, exhibit a sense of environmental responsibility by having regard to the environmental implications of its operations; operate with good financial oversight and stewardship, and efficiently and effectively manages its assets and liabilities and the Crown's investment.
28. However, clause 7 proposes to effectively make an exception to these objectives in order to implement the social housing reform.
29. Under clause 50H(2) of the Bill, the Minister is not "constrained" in any way from entering in a transaction that is potentially inconsistent with the existing HNZC objectives.
30. Additionally, the proposed clause 50J makes the HNZC's principal objectives for any social housing transactions entered into by the Minister purely facilitative. These facilitative objectives are considered to "prevail" over the Corporation's other objectives. This effectively ties the hands of HNZC, even if a transaction is believed to be inconsistent with their social, environmental, or fiscal responsibilities.
31. Whilst the new social housing objectives are positive, the existing objectives of HNZC also provide important protective principles that prioritise stewardship and responsibility. Such principles are important, even in times of expediency and urgency.
- 32. *The Salvation Army therefore recommends that the Minister still be required to follow identical objectives as that of the HNZC Board. Additionally, the Minister should be required to report to Parliament on his meeting of these objectives in any transactions.***

CONCLUSION

33. In conclusion, The Salvation Army supports this Bill in principle, as we have submitted in our comments towards the Social Housing Reform Bill earlier this year. However, The Salvation Army believes that the significant mandate given to the Minister under this Bill requires improved accountability, review and consultation processes, and more principled objectives.

For further information or discussion, please contact:

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