

Reference: 20240807



12 December 2024



Dear 

Thank you for your Official Information Act request, received on 16 October 2024. You requested the following:

*I'm interested in the recently announced Residential Development Underwrite scheme.*

*Please provide all advice to ministers related the scheme.*

*My request includes, but is not limited to:*

- any analytical framework to be used in decision-making related to considering applications to the scheme*
- any analytical framework related when the scheme should end*
- any kind of cost-benefit analysis or risk assessment related to the scheme*

The request was extended on 6 November 2024 to accommodate consultations.

### **Information being released**

Please find enclosed the following documents:

<b>Item</b>	<b>Date</b>	<b>Document Description</b>	<b>Decision</b>
1.	17 January 2024	Aide Memoire T2023/2194: Advice on maintaining construction momentum	Release in part
2.	16 February 2024	Aide Memoire T2024/351: Additional information on housing underwrites	Release in part
3.	3 October 2024	Aide Memoire T2024/2685: Housing underwrites, the Carrington development and Ferncliffe Farms	Release in part
4.	10 October 2024	Treasury Report T2024/2725: Residential Development Underwrite Delegation	Release in full (except contact details)

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<https://treasury.govt.nz>

5.	10 October 2024	T2024/2725: Delegation by the Minister of Finance to the Secretary to the Treasury – Residential Development Underwrite programme	Release in full
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I have decided to release the documents listed above, subject to information being withheld under one or more of the following sections of the OIA, as applicable:

- names and contact details of officials, under section 9(2)(g)(ii) – to maintain the effective conduct of public affairs through protecting Ministers, members of government organisations, officers and employees from improper pressure or harassment,
- certain sensitive advice, under section 9(2)(g)(i) – to maintain the effective conduct of public affairs through the free and frank expression of opinions,
- commercially sensitive information, under section 9(2)(b)(ii) – to protect the commercial position of the person who supplied the information, or who is the subject of the information, and
- direct dial phone numbers of officials, under section 9(2)(k) – to prevent the disclosure of information for improper gain or improper advantage.

Direct dial phone numbers of officials have been redacted under section 9(2)(k) in order to reduce the possibility of staff being exposed to phishing, social engineering and other scams. This is because information released under the OIA may end up in the public domain, for example, on websites including Treasury’s website.

In making my decision, I have considered the public interest considerations in section 9(1) of the OIA.

Please note that this letter (with your personal details removed) and enclosed documents may be published on the Treasury website.

This reply addresses the information you requested. You have the right to ask the Ombudsman to investigate and review my decision.

Yours sincerely



Chris Chapman  
**Director, Financing Infrastructure and Urban Development**



Reference: T2023/2194

Date: 17 January 2024

To: Minister of Finance (Hon Nicola Willis)

Deadline: None  
(if any)

## **Aide Memoire: Advice on maintaining construction momentum**

### **Purpose**

The Ministry of Housing and Urban Development (HUD) has provided advice to the Minister of Housing on maintaining momentum in the construction sector (HUD2023-003323 refers). To achieve this, HUD has recommended changes to existing housing supply programmes. This report provides cover advice on HUD's paper and responds to your questions on alternative options for achieving the same ends and the impacts of cancelling programmes.

These changes are of interest to you as the Minister of Finance as the relevant housing supply programmes rely on your Public Finance Act 1989 (PFA) powers, in particular, section 65ZD (power to give guarantee and indemnity), and section 65L (power to give loans). Additionally, decisions on these programmes are likely to have a range of fiscal impacts.

### **Background on funds and programmes**

The Government has a wide range of funds and programmes aimed at stimulating affordable housing development. HUD's paper considers the following programmes:

#### *Buying off the Plans Programme (BotP)*

BotP was established in 2018 as a core component of the KiwiBuild programme. It offers housing developers sales underwrites, effectively a Crown commitment to purchase a dwelling at a pre-agreed (discounted) price if the developer is unable to sell the dwelling once completed. This makes it easier for developers to access finance as financiers often require a certain number of pre-sale commitments before they are willing to lend. In exchange, developers are required to sell homes at or under house price caps and offer them to eligible first home buyers in the first instance. BotP is a Crown programme administered by Kāinga Ora but not within the immediate scope of the Kāinga Ora Review.

### *Build Ready Developments (BRD)*

BRD was established in August 2022 to support developments that have stalled due to a lack of pre-sales (sales of homes to final consumers before house construction begins). It offers underwrites and/or pre-purchase agreements in developments that already have resource consent and where construction has not commenced but can start within 6-12 months. It offers underwrites in a similar fashion to BotP but developers are not required to offer homes to first home buyers or sell below house price caps. Pre-purchase agreements are also offered, which are a Crown commitment to purchase a home with the intention of on-selling to community housing providers or other community housing organisations. BRD is administered by HUD.

Out of scope

### **Summary of HUD's advice**

HUD has assessed that the residential construction sector may fall significantly below sector capacity, which they term a 'hard landing.' This is based off sector engagement and recent RBNZ forecasts. HUD has also identified that the construction sector has been slow to recover from cyclical downturns, like the Global Financial Crisis (GFC). The slowdown in construction activity, coupled with the gradual recovery of the construction sector and increased net immigration, is likely to worsen current housing shortages.

HUD has identified that the Government is well placed to intervene in the construction sector for a targeted period to reduce the impact of a prolonged downturn. After this, macroeconomic conditions are expected to stabilise and broader system changes to support housing supply through Going for Housing Growth will support the sector. HUD's two recommended interventions to support the construction sector over the next 18 – 24 months are:

- Replacing Buying off the Plans (BotP) and Build Ready Developments (BRD) underwriting programmes with a single, more flexible underwriting tool.

- Out of scope

### **Treasury's overall assessment of HUD's proposals**

#### *State of the residential construction market*

Treasury forecasts that construction activity is likely to face further declines over the next two years, driven by high construction costs and high interest rates. In the medium-term, easing interest rates and tighter housing supply will support recovery in the residential construction sector.

Treasury's outlook for residential construction activity is less pessimistic than that of HUD and the RBNZ. However, all three agencies agree that activity is likely to be subdued in the near term. This is evidenced by residential building consents, having fallen by 20% over the past year, signalling there will be less building activity once the current backlog of house construction is worked through. There are significant uncertainties around any construction sector forecast, given the range of factors that influence investment.

#### *Rationale for intervention in the residential construction market*

Planning, land use regulation, and infrastructure funding and financing issues are government and market failures that reduce the number of houses built and reduce housing affordability. A construction market downturn has the potential to further reduce the rate of house building, exacerbating these underlying government and market failures. We therefore see potential for government intervention to mitigate the impacts of a construction sector downturn. However, any intervention will need to be targeted, tailored and efficient to avoid exacerbating inflationary pressures, avoid crowding out private construction activity and ensure value for money.

#### **Underwrites' potential role in supporting the residential construction sector**

A key barrier facing developers in the current construction sector downturn is a lack of pre-sales (sales of homes to final consumers before house construction begins). A lack of presales limits developers' ability to access finance as financiers often require a certain number of pre-sales before they are willing to lend.

Underwrites provide a Crown commitment to purchase a dwelling at a pre-agreed price, providing sufficient certainty to developer's financiers and allowing developers to finance developments. By providing an underwrite, the Crown is taking on a portion of risk that the market on its own is unwilling to provide.

A targeted underwrite programme at the current point of the construction sector's cycle has several benefits:

- The operating costs and risks of losses are low relative to other housing supply programmes. The primary cost of an underwrite programme is the operational team originating, executing, and managing underwrite contracts. These costs are very low per home enabled (\$5,000 - \$10,000 per home).
- A targeted underwrite programme has the potential to bring forward development of 2000 or more homes over the next 12 months depending on market appetite and operational constraints. This would have a tangible impact on the sector as annual consents in FY2023 were 44,529.
- An underwrite tool is an effective countercyclical intervention because it can be self-regulating as uptake is inversely related to ability to acquire pre-sales. This is evidenced by initial low uptake of BotP that increased significantly as difficulty acquiring pre-sales increased.

- To date, risk associated with the contingent liability of underwrite contracts has been managed effectively with BotP not realising any capital losses on their portfolio. Commercial solutions have been applied to terminate some non-performing contracts entered into in the early years of the programme.
- If underwrites are triggered, the cost to the Crown can be mitigated as homes can be held until properties can be sold at or above cost.
- Developers still require private capital, retaining market discipline on the developers to deliver homes on time and to cost.

We support maintaining the use of an underwriting tool given the benefits of underwrites while developers are finding it difficult to secure pre-sales and access finance. Given the proliferation of housing supply interventions, we also support moving to a single underwriting tool. However, we recommend that you leverage off BoTP's existing capability, including risk management capability, and underwrite pipelines.

*Leveraging off BotP to maintain momentum in the construction sector*

One of the core capabilities of a successful underwriting function is being able to originate, negotiate, and monitor a significant quantity of underwrite contracts annually. The second core capability is having sufficiently robust risk management processes that ensure the Crown is originating transactions that support housing supply while balancing the amount of risk transferred to the Crown.

BotP has been in operation for approximately five years and in that time has underwritten 3,020 homes across 95 developments. BoTP may not have delivered at the scale originally envisaged but has successfully pivoted to enabling developers to continue new housing supply that may otherwise be stalled. Since June 2023, when market conditions were becoming more difficult for developers BoTP has underwritten 422 homes which unlocked a further 1301 market homes. The originating, negotiating, monitoring and risk management capability is well established and has been refined over time<sup>1</sup>.

For the first time in three years Kāinga Ora has received an underwrite notice for three homes and there may be a further 30 underwrites exercised within the development. Risk crystallising is a natural part of any underwrite programme and these underwrites are within the agreed risk tolerance and parameters of BoTP. The fiscal impact of any underwrites being exercised is likely to be limited and will depend on the value of sales that the Crown makes, relative to the underwrite price, and any holding costs incurred. Kāinga Ora and Treasury will continue to monitor risk exposure and update you on any substantive changes.

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<sup>1</sup> The current risk management capability is evidenced by actuarial modelling from 31 October 2023 showing that \$16 million of underwrites will be triggered of a total \$570 million contingent liability with a low risk of significant capital losses, estimated to be 0.3%.

BoTP also has a credible pipeline of around 600 homes. For the purposes of providing counter-cyclical support to the development sector we think the programme has preformed effectively. However, its ability to achieve other objectives like supplying dwellings at affordable price points<sup>2</sup> and shift to more dense typologies is uncertain<sup>3</sup>.

The BRD programme is less well established, having operated for just over a year and Treasury has concerns about its performance to date. The primary concern is the scale of impact of the intervention s9(2)(g)(i) To date the BRD has supported 127 homes across eight sites through a combination of underwrites and prepurchase, compared to BoTP's 618 across 21 developments since August 2022. Additionally, BRD's current pipeline has 40 homes, compared to BoTP's 600. Although BRD has had a greater focus on the regions where it is harder to originate bankable developments.

In August 2023, Treasury advised on a range of issues on the fifth tranche of BRD approvals s9(2)(g)(i)

It is too early in the programme to fully assess its effectiveness but given the concerns above, BRD is not as well placed to support the construction sector as BoTP.

Given this, further advice sought by the Minister of Housing from HUD should include options to adjust the BotP settings, with a focus on how any changes can maximise the pace and scale of housing supply while managing costs and risks to the Crown. This advice could also consider how to reposition and rebrand BotP as the intervention that will support the construction sector in the face of mounting macroeconomic pressures. The advice should also consider options to consolidate BRD's underwriting functions into BoTP and where BRD's pre-purchasing functions are best placed.

#### *Fiscal implications of an adapted underwrite programme*

There is headroom within the existing Buying Off the Plans appropriation and the Housing Agency Account<sup>4</sup> to pay out exercised underwrite contracts. An increase in the quantum of underwrites executed would be required ahead of needing any additional funding. Any additional funding would have minimal impacts on the fiscal indicators as forecast spend within the BotP appropriation would not change significantly. However, it would increase the quantum of risk associated with housing underwrites and it may need to be recognised as a Specific Fiscal Risk.

Although underwrites can play an important role in supporting the construction sector, any decisions on the appropriation of additional funding need to be considered alongside required savings as part of Budget 2024, to ensure value for money. The key constraint for supporting additional underwrites will be having sufficient operational funding to originate, execute, and manage underwrite contacts. For BotP these activities are funded through the Kāinga Ora - Homes and Communities appropriation. You will be taking general decisions on appropriating funding for this, and other activities undertaken by Kāinga Ora as part of Budget 2024. We will provide you further advice as part of the Budget 2024 initiative assessment.

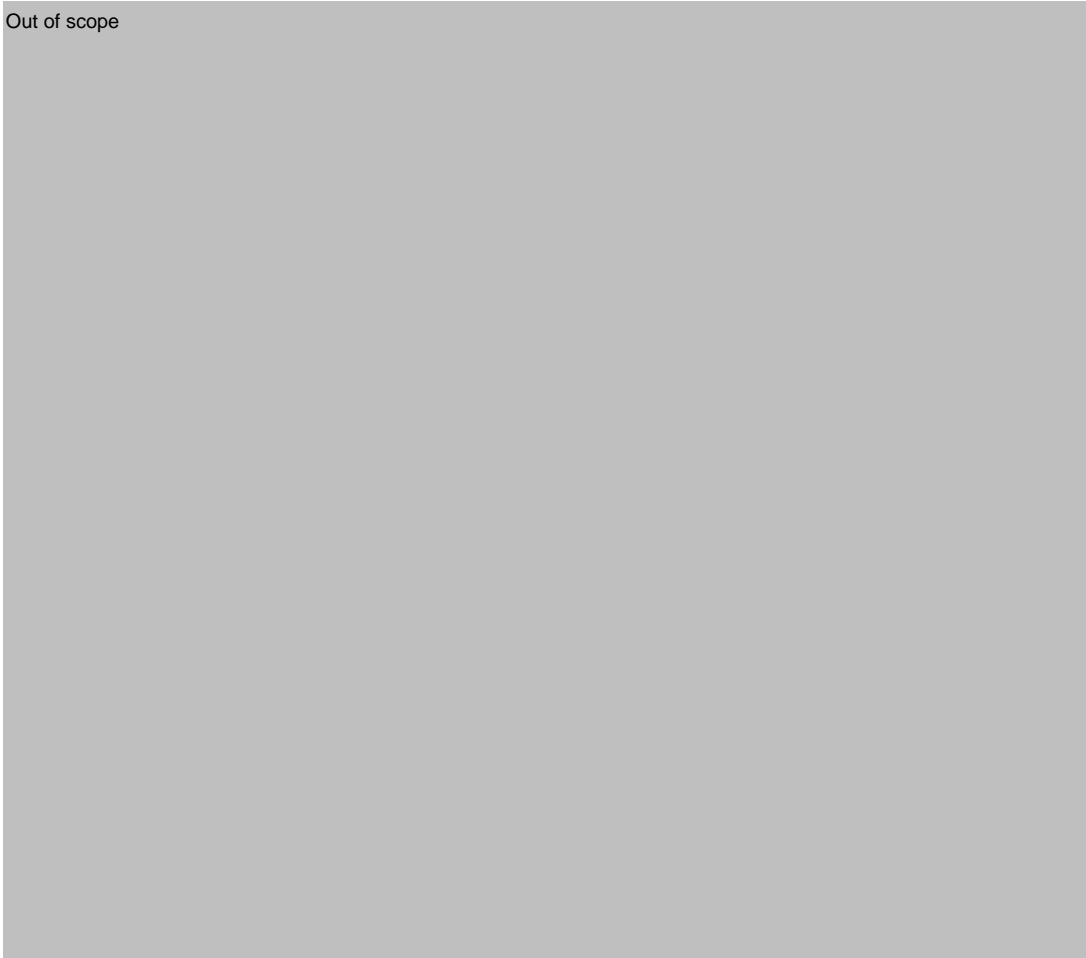
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<sup>2</sup> KiwiBuild price points are very similar to market pricing so there are limited affordability benefits for first home buyers.

<sup>3</sup> BOTPs ability to shift typologies is unclear and wider market forces appear to have played a larger role.

<sup>4</sup> Kāinga Ora administers the Housing Agency Account as an agent of the Crown under the Housing Act 1955

Out of scope



### **Alternative options outside of underwrites and land programmes**

Outside of underwrites and the government land programmes, there are limited options to immediately support the residential construction sector at relatively low cost. Other government housing programmes, such as social housing, often have a higher fiscal cost and a longer lag before construction begins. If you would like to consider alternative options, officials can investigate a broader set of options for your consideration.

### **Decommissioning underwrites and land programmes and future advice**

We support retaining underwriting and government land programme functions in the short-term at this point of the construction sector's cycle. There should only be one Crown underwriting function to improve coherency for the development sector and more efficiently allocate operational resource. We are therefore supportive of BRD's underwriting functions being consolidated into BoTP and further advice should be taken on where BRD's pre-purchasing functions are best placed. Before taking decisions to unwind any specific programmes we recommend that you direct the Minister of Housing to commission advice on the impacts and risks of decommissioning each programme. For initial analysis of the likely impacts see Annex A.



In addition to short-term interventions, longer term strategic work on the Crown's investment and regulation of the construction sector needs to be explored. Therefore, we are supportive of HUD's proposed future advice on how to shift to a sustainable outcomes-based funding approach across a range of housing programmes.

### **Next Steps**

Treasury is available to discuss this advice and support your engagement with the Minister for Housing.

Cormac Lynch, Analyst, Housing and Urban Growth, s9(2)(k)  
Geraldine Treacher, Manager, Housing and Urban Growth, s9(2)(g)(ii)

## Annex A: Initial assessment of impacts of decommissioning BotP, BRD, and LfH.


Table 1: Buying Off the Plans programme

Impacts	Summary
<b>Fiscal Impacts</b>	<p>There would be no major impact on the fiscal indicators from discontinuing this programme. The main fiscal impact would be the contingent liability associated with outstanding underwrites decreasing as underwrite contracts are extinguished. The total contingent liability is currently \$570m with a further \$15.6 approved by Ministers yet to be contracted. All the existing underwrite contracts are expected to be extinguished by December 2026. If further underwrites are executed exposure will continue to a later date.</p> <p>s9(2)(g)(i) . However, some funding would be required to maintain the annual cost of administering existing underwrite contracts. Any positive impact on the fiscal indicators would be minor.</p>
<b>Housing supply</b>	<p>We anticipate that decommissioning the scheme will result in between 1000 - 2000 homes no longer receiving underwrite support. This is likely to delay developments across the country until developers can secure financing through other means. Likely exacerbating the size of the downturn in the construction sector.</p> <p>There is also a tangible pipeline of underwrite transactions that could potentially underwrite 635 homes and enable a total of 1,279 within coming months that could no longer be progressed.</p>
<b>Operational Impacts</b>	<p>Most of the team delivering BotP would be decommissioned but a smaller team would still need to manage existing underwrite commitments through to completion, unless transferred to another underwriting function.</p>
<b>Other Impacts</b>	<p>The BotP team has upskilled significantly over the previous five years, developing complex risk management capabilities, and iteratively updated commercial arrangements to best manage risks. Decommissioning this programme would lead to the loss of those capabilities and it would likely take a significant period to rebuild those capabilities.</p>

Table 2: Build Ready Developments

Impacts	Summary
<b>Fiscal Impacts</b>	<p>There would be no major impact on the fiscal indicators from discontinuing this programme. The two main fiscal impacts would be:</p> <ul style="list-style-type: none"> <li>the contingent liability associated with outstanding underwrites decreasing as underwrite contracts are extinguished.</li> <li>The execution of pre-purchase arrangements and subsequent on-sale. The degree of write-down of property values to support social housing providers will determine the quantum of any impact on fiscal indicators. Although the quantum of any impact would likely be small.</li> </ul> <p>The annual operational spend of BRD is unclear but discontinuing the scheme would likely result in some minor operational savings. Further work is required to quantify the quantum of fiscal impact from decommissioning BRD.</p>
<b>Housing supply</b>	<p>We anticipate that discontinuing the scheme will mean that between 100 – 250 homes would no longer receive underwrite or pre-purchase support each year.</p> <p>There are three sites under investigation that could support the development of 40 homes that could no longer be progressed.</p>
<b>Operational Impacts</b>	<p>Most of the team delivering BRD would be decommissioned but a smaller team would still need to manage existing underwrite and prepurchase commitments through to completion, unless transferred to another underwriting function.</p>
<b>Other Impacts</b>	<p>The BRD team was only established in August 2022 and relative to BotP has not yet had time to mature risk management practices nor had the opportunity for the commercial model to develop. There is a low risk of losing core underwriting capabilities.</p>

Out of scope



Reference: T2024/351

Date: 16 February 2024

To: Minister of Finance (Hon Nicola Willis)  
Minister of Housing (Hon Chris Bishop)

Deadline: None  
(if any)

## **Aide Memoire: Additional information on housing underwrites**

### **Purpose**

This advice responds to your request for further information on the economic case for housing underwrites, in advance of your meeting with officials on this topic on Monday 19 February at 2pm.

### **Context on broader housing funds and programmes**

You have set a saving target for Vote Housing of \$108.8m of permanent baseline reductions. In addition, you have requested detailed information on funding available within each fund. This will be provided to you today, with a high-level assessment of value for money of each programme provided next week.

We note that Vote Housing and Urban Development has a wide range of funds and programmes, many of which represent low value for money, duplicate similar functions, and can be consolidated or wound down to provide savings.

Our view is that savings should be returned to centre unless a programme can demonstrate significant value for money, including that:

- the intervention logic is clear,
- the programme performs well and delivers on expectations, and
- fiscal costs are proportionate to the outcomes being achieved.

### **There is a case for support during a construction sector downturn**

You received advice from the Treasury and the Ministry of Housing and Urban Development (HUD) on the role of underwrites in maintaining construction momentum [T2023/2194 and HUD2023-003323 refers]. For the reasons canvassed below, our position remains that we support the ongoing use of an effective underwriting tool.

***The construction sector is critical to addressing the underlying government and market failures in the housing sector***

Planning, land use regulation, and infrastructure funding and financing issues are the primary government and market failures that reduce house building, contributing to a cumulative shortfall of housing stock.

This has resulted in higher demand for costly government supports, such as social housing, accommodation supplements, and emergency housing. Correcting these failures requires both reform of the underlying regulatory settings and high construction activity for a sustained period to deliver homes faster.

Even with extensive reform to planning, land use regulation and infrastructure settings, it will take a significant time to make up this shortfall. HUD estimates that the residential construction sector running at full capacity can build around 38-40 thousand dwellings per year, a 1.7% increase after accounting for demolitions (often necessary in brownfield development). This compares with population growth, which averaged 1.6% over the last decade, and which has risen to 2.7% in the year ending September 2023.

***The construction sector is forecast to run below capacity in the short-term***

Treasury forecasts residential construction activity will likely decline over the next two years, with residential building consents falling by 25% in the year ending December 2023. This is driven by high construction costs and interest rates. The sector is expected to recover in the medium-term, as interest rates ease and house prices increase.

A persistent period with activity below capacity would make it harder to make up the shortfall in housing stock, delaying the correction of underlying market and government failures. There is also a risk of reduced capacity in the medium term (e.g. outward migration of construction workers), which could slow the recovery of the sector and add to inflationary pressure in future years.

***Developer access to finance is a key constraint on sector activity***

A key barrier currently facing many developers is a lack of pre-sales (sales of homes to final consumers before house construction begins). This constraint was identified through HUD's market soundings, and evidenced by the recent increase in requests for use of the underwrite programmes. Financiers often require a certain number of pre-sales before they are willing to lend limiting developers' ability to access finance, which can then significantly delay or stop otherwise viable developments. We understand that developers have limited options to progress developments without pre-sales as financiers are either not willing to hold this risk or pricing is prohibitive to the development progressing at pace.

***There is a potential case for support during a construction sector downturn***

A persistent construction sector downturn would slow house building at a time of high population growth, place upward pressure on rents and house prices, and ultimately delay returning housing stock to an efficient level. Therefore, there is an economic case for government intervention focussing on improving developer-access to finance.

An effective countercyclical policy needs to be:

- **Timely:** support should take effect quickly given the current downturn is expected to last for another 18 to 24 months.
- **Targeted:** support should focus on developer access to finance, the key cyclical constraints in the sector.
- **Temporary:** support should scale or be withdrawn once the construction sector has recovered.

Underwrite programmes fit these criteria. The support for the sector will be timely (next 18 -24 months) as there are existing pipelines of transactions that can be contracted. It targets sales risk, one of the key constraints limiting access to financing, while still retaining market discipline from financiers. Finally, housing underwrite programmes tend to scale with the construction cycle, with demand from developers being high during a downturn and lower during an upturn. As the construction sector recovers, we expect difficulty accessing presales to ease and we expect developers will be less inclined to go through the 2–3-month application, assessment, and approval process.

### **The Government has an effective underwrite programme**

The Government has two underwrite programmes: Buying off the Plans (BotP) and Build Ready Developments (BRD). BotP was established in 2018, as a core component of the KiwiBuild programme. It focuses on underwriting homes to support first home buyers and is administered by Kāinga Ora. BRD was established in 2022 to support developments that have stalled due to a lack of pre-sales via underwrites and/or pre-purchase agreements with developers, and is administered by HUD.

Our assessment below is that there is duplication across these programmes, and on the basis that BotP fulfills the criteria identified above, represents better value for money, and has more robust assurance processes, there is a case for disestablishing the BRD.

Additionally, you could make the BotP a time limited programme or request an annual review from officials on whether an underwrite intervention is appropriate given current market conditions.

There is a risk of increasing labour and material costs in the near-term by supporting the construction sector via an underwrite. However, we anticipate that on the current trajectory the sector will fall significantly below sector capacity. Any short-term pressures caused by stimulating activity will likely be outweighed by the long-term gains from retaining human capital and maintain existing supply chains.

### ***Assessment of BotP and BRD performance***

To be effective, an underwriting tool must have:

- the ability to originate, negotiate, and monitor a significant quantity of underwrite contracts annually, and
- sufficiently robust risk management processes to ensure the Crown is originating transactions that support housing supply while managing the risk transfer to the Crown.

#### **Buying off the Plans**

BotP has been in operation for approximately five years, built 2,280 homes through the programme, with another 1,294 under construction, and enabled a further 3,750 market

homes. BoTP may not have delivered at the scale originally envisaged, but has successfully pivoted to enabling developers to continue new housing supply that may otherwise be stalled. Since June 2023, when market conditions were becoming more difficult for developers, BoTP has underwritten 422 homes which unlocked a further 1301 market homes. Without an underwrite, some developments may be deferred, and some may stall entirely. It is difficult to quantify the overall impact, but it is likely the some of the enabled houses would be built without underwrite support.

BoTP has also developed and refined their risk management capability over time. This is evidenced by:

- **Regular actuarial risk assessments:** bi-monthly actuarial reporting that assesses the 'expected' scenario and in a 'downside' (95<sup>th</sup> percentile) scenario. This estimates the value of the underwritten homes which will be purchased by the Crown and offsets the cost of purchases by the sales revenue expected when the Crown on-sells those homes, allowing Ministers to assess their exposure against the overall appropriation position.
- **Updated contracting:** BoTP have continually updated their contracting approach in response to previous transactions to better manage risks. For example, BoTP has contracted funders to independently advise on any issues with developers' reporting.
- **Comprehensive due diligence:** a formal due diligence report on the developer and the proposal are reviewed by Treasury, which includes credit checks, Ministry of Justice checks, and other assessments.
- **Robust internal assessment processes:** applications are open to all developers. However, only proposals that meet due diligence requirements and are in line with the objectives of the programme are then assessed by an internal Kāinga Ora underwrite committee, and finally endorsed by the Kāinga Ora Investment and Delivery Committee (a sub-committee of the Kāinga Ora Board) before being submitted to joint Ministers for approval.

These processes ensure that risk is effectively identified, managed, and mitigated. Despite these measures, underwrites are designed to take risk and it will materialise on occasion. This has occurred for the first time in three years, as Kāinga Ora has purchased three homes and there will likely be a further 30 underwrites exercised across the development. Risk crystallising is a natural part of any underwrite programme and these underwrites are within the appropriation headroom.

### Build Ready Developments

The Treasury has several concerns about BRDs performance to date. The primary concern is the scale of impact of the intervention s9(2)(g)(i)

To date, BRD has supported 127 homes across eight sites through a combination of underwrites and prepurchase, compared to BoTP's 618 across 21 developments since August 2022. Additionally, BRD's current pipeline has 40 homes, compared to BoTP's 600.

In August 2023, Treasury advised on a range of issues on the fifth tranche of BRD approvals s9(2)(g)(i)

It is too early in the programme to fully assess its performance but given the concerns above, BRD is not as well placed to support the construction sector

as BoTP although they have a greater focus on the regions where it is harder to originate bankable developments.

On this basis, we see a case for disestablishing BRD. This will result in an improvement of the OBEGAL position of \$35m, over the forecast period. It will also provide departmental headroom for the Ministry of Housing and Urban Development.

### ***Mitigating the risk of picking winners***

We understand there are concerns about underwrite programmes 'picking winners.' As discussed above, BotP has comprehensive assessment processes. They ensure developments received by Ministers are in line with the objectives of the programme and meet due diligence requirements. We are comfortable that these measures are sufficient to mitigate the risk of picking winners. Ministers also hold the right to not approve underwrite transactions.

### ***Costs and fiscal impacts***

Given we recommend disestablishing BRD, we have only assessed the costs and fiscal impacts for BotP. Generally, underwrite programmes have minimal impacts on the fiscal indicators, as long as the associated contingent liability is managed effectively. BotP has managed risk effectively over the previous five years. As at 31 October 2023, around 14% of BotP underwrites have been sold to the Crown and the loss given default to date has only been 2.5% when factoring in holding and selling costs (capital losses of 0.35% on total portfolio).

The total fiscal impact associated with the contingent liability has been an adverse impact on:

- OBEGAL of \$3.7m from capital gains less holding and selling costs, and
- transitory net debt of \$146.4m, to purchase homes that are subsequently offset by revenues from on-sale.

Many of these costs stem from contracts early in the programme and contractual terms are now more effective at limiting risk. In addition, some costs were driven by Ministers providing support beyond their contractual obligations.

The other cost associated with an underwrite programme is the annual operating costs of around \$6m per year, which equates to \$5,000 - \$10,000 per home underwritten. This presents a greater value proposition compared to other programmes that require significantly more operating and capital funding to enable or build homes. For example, each social housing place would cost approximately \$60,000 in operating funding each year and require approximately \$1 million of capital funding. This is based on the 2023 Budget bid for Public Housing Supply – Maintaining delivery of Government Build Programme.

There is headroom within the existing BotP appropriation and the Housing Agency Account<sup>1</sup> to pay out exercised underwrite contracts. Based off current risk modelling, a greater than \$500m increase in the quantum of underwrites written modelling would be required before it would be prudent to increase appropriated funding. Any additional funding would have minimal impacts on the fiscal indicators as forecast spend within

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<sup>1</sup> Kāinga Ora administers the Housing Agency Account as an agent of the Crown under the Housing Act 1955



the BotP appropriation would not change significantly. However, it would increase the quantum of risk associated with housing underwrites, and it may need to be recognised as a Specific Fiscal Risk.


### **Potential changes to improve the performance of the BotP programme**

If you would like to maintain the BotP programme, there are a number of potential improvements that could be made. These changes would take some time to implement. The programme:

- By targeting first home buyers as the key cohort, it decreases the potential buyer cohort, and increases sales risk. There are options to adjust these criteria to focus the underwrite programme explicitly on supporting the construction sector and reducing cost and risk to the Crown [HUD2023-003323 provides some of these options]. We are supportive of implementing these changes, but Cabinet decision would be required to enable these changes.
- The BotP programme could charge developers to price for the risk it is taking and seeking to run the programme on a cost recovery basis, akin to the New Zealand Export Credit Office. Our view is that the Crown is accepting this risk to increase housing supply and support the construction sector. Pricing the risk in the short-term may reduce ability of the programme to support the construction sector, and it will take time to develop a pricing model. When the construction sector recovers, you may wish to consider pricing the risk as a potential off-ramp, as an alternative to winding down the programme.

Cormac Lynch, Analyst, Housing and Urban Growth, s9(2)(k)  
Talosaga Talosaga, Acting Manager, Housing and Urban Growth, s9(2)(g)(ii)

s9(2)(b)(ii)





Reference: T2024/2685 SH-13-5-3-1-M111139

Date: 3 October 2024

To: Minister of Finance (Hon Nicola Willis)

Deadline: 4pm, 7 October 2024  
(if any)

**Aide Memoire: Housing underwrites,** [Out of scope]

You are scheduled to meet with the Minister of Housing on 7 October 2024 to discuss the Housing underwrite programmes, [Out of scope]

[Out of scope] This aide memoire summarises your recent feedback on these matters, provides Treasury's suggested next steps, and outlines speaking points for your meeting with the Minister of Housing.

**Kiwibuild and the new Residential Development Underwrite**

s9(2)(g)(i)

[Out of scope] legacy Kiwibuild underwrite programme and the new Residential Development Underwrite (RDU), which you and the Minister of Housing most recently considered on 1 September 2024 (HUD2024-005126 refers).

The Kiwibuild underwrite programme is closed and the recent policy changes (primarily the removal of buyer restrictions and the removal of price caps) were intended to reduce risk and costs to the Crown by broadening the buyer pool, allowing developers to recover increased construction costs, and reduce compliance costs.

These changes also make the Kiwibuild legacy underwrites more consistent with the new RDU and intended to reduce the operational and administrative costs of managing both programmes if they were to be consolidated within the Ministry of Housing and Urban Development (HUD). Such a consolidation has been delayed until at least March 2025 given the organisational changes underway within HUD and Kāinga Ora.

**Residential Development Underwrite (RDU)**

The RDU will be announced before the end of October, various approvals are still required to enable underwrites to be granted by HUD officials, including the delegation of your Public Finance Act 1989 powers under section 65ZD.

You asked whether changes could be made to the RDU once it was live if the construction market became more difficult. The answer is yes, but the RDU is designed with strong controls such that we consider that this shouldn't be necessary as:


- HUD must manage the Crown's net exposure within the initially appropriated \$105 million, which is to be estimated every two-months by external actuaries;
- if the net exposure approaches the upper limit, HUD can respond by withholding underwrites for new, and in-process, applicants; and
- as legacy Kiwibuild and Build Ready Development contracts are closed out, fiscally neutral adjustments from these appropriations may be possible to increase the net exposure limit of the RDU.

Relative to expected demand, the initial net exposure limit of \$105 million will likely require significant rationing of underwrites to developers. This should ensure the underwrites that are signed are those that maximise housing supply while managing risk to the Crown.


Under the proposed delegation of your Public Finance Act 1989 powers, Treasury is to be consulted on each underwrite that HUD is proposing to grant within the first three months of the operation of the programme which will ensure good visibility of the risks HUD is proposing to underwrite. After three months, Treasury will be sent papers after HUD has made decisions and will continue to receive the two-monthly reports from the external actuaries.

***You may wish to ask the Minister of Housing how progress is going towards effectively implementing the RDU.***


Out of scope



Out of scope



Out of scope



Anthony Powell, Senior Analyst, Housing and Urban Growth, s9(2)(g)(ii)

Mark Hodge, Acting Manager, Housing & Urban Growth, s9(2)(g)(ii)



**Treasury Report: Residential Development Underwrite Delegation**

<b>Date:</b>	10 October 2024	<b>Report No:</b>	T2024/2725
		<b>File Number:</b>	SH-13-5-3-1-M111312

**Action sought**

	<b>Action sought</b>	<b>Deadline</b>
<b>Minister of Finance</b> (Hon Nicola Willis)	<p><b>Note</b> that the Ministry of Housing and Urban Development (HUD) is ready to implement the Residential Development Underwrite Programme (RDU Programme) in accordance with recent decisions (CAB-24-MIN-0246 and HUD2024-004928 refer).</p> <p><b>Agree to delegate your</b> authority under section 65ZD of the Public Finance Act 1989 to the Secretary to the Treasury to implement the RDU Programme.</p> <p><b>Note</b> that we propose that the Secretary to the Treasury sub-delegate the authority to implement the RDU Programme to HUD’s Chief Executive.</p>	14 October 2024

**Contact for telephone discussion (if required)**

<b>Name</b>	<b>Position</b>	<b>Telephone</b>	<b>1st Contact</b>
Anthony Powell	Senior Analyst, Housing and Urban Growth	s9(2)(k)	N/A (mob) ✓
Mark Hodge	Acting Manager, Housing and Urban Growth	N/A (wk)	s9(2)(g)(ii)

**Minister’s Office actions (if required)**

**Return** the signed report and delegation instrument to the Treasury.

Note any feedback on the quality of the report

**Enclosure:** Yes (attached)

## Treasury Report: Residential Development Underwrite Delegation

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### Purpose of Report

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1. This report seeks your agreement to delegate authority to the Secretary to the Treasury to *grant and execute* guarantees and indemnities (Underwrites) pursuant to section 65ZD of the Public Finance Act 1989 as part of the implementation of the Residential Development Underwrite Programme (RDU Programme).
2. Your agreement is also sought to delegate authority of powers necessary to *manage and administer* the RDU Programme, for example through amending Underwrites and purchasing properties where Underwrites have been triggered.
3. We also propose the Secretary to the Treasury sub-delegate the authority to *grant and execute* Underwrites, and *manage and administer* the RDU Programme, to the Chief Executive of the Ministry of Housing and Urban Development (HUD).

### Background

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4. In July 2024, Cabinet agreed to replace KiwiBuild and Build Ready Developments (BRD) with a general-sales underwrite, and jointly authorised you and the Minister of Housing to make any decisions reasonably necessary to give effect to this (drawing on the existing underwriting appropriations) [CAB-24-MIN-0246 refers].
5. In August 2024, you and the Minister of Housing agreed on the objectives, eligibility and prioritisation criteria, and administrative responsibilities for the RDU Programme. This agreement included delegated decision making by HUD officials in respect of the grant and execution of each Underwrite and management and administration of the RDU Programme (HUD2024-004928 refers).
6. HUD is now ready to implement the RDU Programme and has published information on eligibility criteria, the assessment framework and how to make an application on its website. Applications opened on 7 October, 2024.

### Delegation

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7. In line with your previous agreement, we recommend that you grant delegated authority regarding the RDU Programme to the Secretary to the Treasury. We also propose that the Secretary to the Treasury then sub-delegate the relevant powers to the Chief Executive of HUD.
8. Specifically, we propose you grant delegated authority to:
  - grant and execute guarantees and indemnities (Underwrites) pursuant to section 65ZD of the Public Finance Act 1989 as part of the implementation of the RDU Programme;



- amend, manage, and administer Underwrites and take any action required to give effect to the Underwrites; and
- make any payments required under the Underwrites and pay any related expenses.

9. The delegation instrument is attached to this report for your execution.

### **Conditions**

10. There are various conditions in the delegation instrument designed to incentivise sound decision-making by relevant HUD officials and manage risks to the Crown. These conditions are that the delegate must be satisfied that:
- before giving or amending an Underwrite under the delegation, the relevant guarantee or indemnity is necessary or expedient in the public interest (section 65ZD(1) of the Public Finance Act 1989);
  - the Underwrite is consistent with the objectives and the intent of the RDU Programme (as outlined in section 3 (b) of the delegation instrument); and
  - the recipient of the Underwrite satisfies the eligibility criteria and the evaluation and selection of the Underwrites is consistent with the evaluation methodology (as outlined in Annexes 1 and 2 of the delegation instrument).
11. Within the first three months of the RDU Programme's operation the delegation instrument requires that Treasury be consulted on each underwrite that HUD is proposing to grant. After three months, Treasury can request that underwriting papers be provided after HUD has made decisions.
12. Finally, HUD must manage the Crown's net exposure within the initially appropriated \$105 million, which is to be estimated every two-months by external actuaries. As legacy Kiwibuild and Build Ready Development contracts are closed out, Ministers be able to consider fiscally neutral adjustments from these appropriations to increase the net exposure limit of the RDU Programme.

### **Sub-delegation by HUD's Chief Executive**

13. The delegation instrument provides that HUD's Chief Executive can sub-delegate the power to grant and execute Underwrites to two Deputy Secretaries (identified by position title). HUD's Chief Executive can also sub-delegate the power to manage, administer, and make payments, under any Underwrites to the General Manager Responsible for the RDU Programme.
14. We consider these sub-delegations appropriate as while they allow for easier administration of the RDU programme they still retain decision-making at sufficiently senior levels within HUD to ensure good organisational accountability.

### **Consultation**

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15. HUD were consulted on the delegation instrument.

## Implementation and next steps

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16. Once the delegation and sub-delegation instruments are executed HUD will be able to begin granting Underwrites under the RDU Programme. We will keep you informed of the risks underwritten in the RDU Programme as we receive the two-monthly assessments from external actuaries.

## Recommended actions

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We recommend that you:

- a **Note** that the Ministry of Housing and Urban Development (HUD) is ready to implement the Residential Development Underwrite Programme (RDU Programme) in accordance with recent decisions (CAB-24-MIN-0246 and HUD2024-004928 refer).
- b **Agree**, consistent with the decisions outlined in recommendation a) above, to delegate your authority under section 65ZD of the Public Finance Act 1989 to the Secretary to the Treasury to implement the RDU Programme.

*Agree / Disagree*

- c **Note** that, consistent with the decisions outlined in recommendation a) above, we propose that the Secretary to the Treasury then sub-delegate the authority to implement the RDU Programme to HUD's Chief Executive.

Mark Hodge  
**Acting Manager, Housing & Urban Growth**

Hon Nicola Willis  
**Minister of Finance**

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## DELEGATION BY THE MINISTER OF FINANCE TO THE SECRETARY TO THE TREASURY – RESIDENTIAL DEVELOPMENT UNDERWRITE PROGRAMME

**Date:** 2024

**From:** Minister of Finance

**To:** The Secretary to the Treasury

### 1. Background

Cabinet agreed in July 2024 to establish a time limited single underwrite programme to mitigate the effects of the residential construction downturn on the sector (the **Residential Development Underwrite Programme**).

I, the Honourable Nicola Willis, **Minister of Finance**, and the Minister of Housing have agreed (HUD2024-004928 refers) that the objectives of the Residential Development Underwrite Programme are as follows (the **Objectives**):

- (a) the primary objective is to maximise housing supply, while minimising the costs and risk to the Crown; and
- (b) the secondary objective is to accelerate development of Crown owned land.

I have the power to give guarantees and indemnities under section 65ZD the Public Finance Act 1989. This delegation is intended to provide the **Secretary to the Treasury** (and any person acting in such role from time to time), and authorised subdelegates, the power under section 65ZD of the Public Finance Act 1989 to grant guarantees and indemnities under the Residential Development Underwrite Programme on the conditions set out below.

### 2. Delegation

Subject to paragraph 3 (Conditions), pursuant to clause 5 of Schedule 6 of the Public Service Act 2020, I, the Honourable Nicola Willis, **Minister of Finance**, delegate to the **Secretary to the Treasury** (and any person acting in such role from time to time), the authority to:

- a) grant and execute guarantees and indemnities pursuant to s 65ZD of the Public Finance Act 1989 as part of the implementation of the Residential Development Underwrite Programme (**Underwrites**), in such form and on such terms and conditions that the delegate thinks fit;
- b) amend an Underwrite;
- c) manage and administer Underwrites and take any action required to give effect to the Underwrites, including:
  - i. confirming or waiving any conditions or amending such conditions, provided that that waiver or amendment does not affect the public interest analysis referred to in paragraph 3(a) below and that there is no material

adverse change to the Underwrite as a consequence of that waiver or amendment, and

- ii. entering into any document contemplated by the Underwrite;
- d) make any payments required under such Underwrites and pay any related expenses; and
- e) calculate amounts and rates, give and receive notices, receive payments and do all other acts or things required, necessary or desirable to exercise or perform the Crown's rights and obligations under the Underwrites.

### **3. Conditions**

Exercise of the powers under paragraph 2(a) and (b) of this delegation are subject to the following conditions:

- a) the exercise of the authority and powers delegated in this instrument must be consistent with all legal requirements. In particular, before giving or amending an Underwrite under this delegation, the delegate must be satisfied that the relevant guarantee or indemnity is necessary or expedient in the public interest (section 65ZD(1) of the Public Finance Act 1989);
- b) the delegate must be satisfied that the Underwrite is consistent with the Objectives and the intent of the "Residential Underwrite Programme", as outlined in HUD2024-004928;
- c) the delegate must be satisfied that the recipient of the Underwrite satisfies the eligibility criteria set out in Annex 1;
- d) the delegate must be satisfied that the evaluation and selection of the Underwrites is consistent with the evaluation methodology set out in Annex 2;
- e) the Underwrites must comply with any other relevant criteria set by me from time to time and communicated to the delegate in writing;
- f) aggregate estimated and actual losses under the Residential Development Underwrite Programme at the time of executing an Underwrite, including estimated losses for the Underwrite being executed, must be within the undrawn amount within the Vote Housing, Multi-year multi-category appropriation named: Residential Development Underwrite (Non-Departmental Output Expense: Residential Development Underwrite purchases); and
- g) the delegate must forward to the Office of the Clerk a statement of details of each Underwrite given under this delegation under which the Crown's contingent liability exceeds \$10 million, as required under section 65ZD(3) of the Public Finance Act 1989 for presentation to the House of Representatives on my behalf, except where a statement has already been provided in relation to a particular Underwrite.

#### 4. Consent to sub-delegation

I, the Honourable Nicola Willis, **Minister of Finance**, consent to the sub-delegation by the **Secretary to the Treasury** pursuant to clause 2 of Schedule 6 of the Public Service Act 2020 of all or any of the powers delegated by me under this delegation instrument, to the Chief Executive of the Ministry of Housing and Urban Development (and any person acting in such role from time to time).

I also consent to the further sub-delegation by the Chief Executive of the Ministry of Housing and Urban Development of all or any of the powers delegated by me under this delegation instrument to the following (and any person acting in such roles from time to time):

- a) the Deputy Chief Executive, System Delivery and Performance (or substantially similar successor role); or
- b) the Deputy Chief Executive, Organisational Performance (or substantially similar successor role).

I also consent to the further sub-delegation by the Chief Executive of the Ministry of Housing and Urban Development of the specified powers in paragraph 2(c), (d) and (e) (the **Administration Powers**) in relation to any Underwrite agreements entered into by the Chief Executive or a Deputy Chief Executive, to the General Manager responsible for implementing the Residential Underwrite Programme (and any person acting in any such positions from time to time).

Where any authority and powers delegated by me in this delegation instrument are sub-delegated to the Chief Executive of the Ministry of Housing and Urban Development, then the Chief Executive or sub-delegate must:

- c) before exercising a delegated power in paragraph 2(a) or (b) for the three month period following the date of this instrument, consult with the Treasury in respect of each proposed Underwrite, including by providing, at least 7 working days before the proposed Underwrite is granted, a report detailing matters including:
  - i. the Underwrite terms and conditions;
  - ii. the public interest analysis; and
  - iii. compliance with the other conditions of this delegation;
- d) after the period described in paragraph 4(c), if requested by Treasury, provide a report on an Underwrite(s) detailing matters such as those set out in (c)(i) to (iii) above; and
- e) every two months, provide Treasury with a report detailing all Underwrites entered into pursuant to this delegation, including an external assessment of risks underwritten and the estimated costs to the Crown of the Residential Development Underwrite Programme.

**5. Term of delegation**

The delegation will come into effect on the date of signing and will continue in force until it is revoked in writing (in full or in part).

**SIGNED** by the **MINISTER OF FINANCE**  
the Honourable Nicola Willis

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

*Made under the authority of the Public Service Act 2020*

## ANNEX 1 – ELIGIBILITY CRITERIA

Applicants must meet minimum eligibility criteria set by Ministry of Housing and Urban Development from time to time, relating to their track record, ownership, or ability to own, the land and any required resource consents, demonstrated need for an underwrite, project size (minimum 30 homes), and willingness to provide a recent market valuation for their development.

## ANNEX 2 – EVALUATION METHODOLOGY

<b>Prioritisation criteria and indicative weighting</b>	<b>Evidence considered</b>
Net cost and risk to the Crown (35%)	<p>Development feasibility.</p> <p>Underwriting discount relative to market value.</p> <p>The proportion of homes in the development or stage to be underwritten.</p> <p>Average price of underwritten homes (underwrite value).</p> <p>Volume and proportion of presales achieved (if any).</p> <p>Level of developer equity contributed to the development.</p> <p>Assessment of the developer’s submitted case studies with particular focus on sales risk.</p> <p>Level of developer equity contributed.</p>
Project Readiness (25%)	<p>Finance availability.</p> <p>Construction commencement date.</p> <p>How soon houses will be delivered including last home delivery dates (from date of assessment and for the stage underwrites are being applied for).</p> <p>Developer has suitable capability and capacity within their organisation (or contracted in) to successfully undertake the development.</p> <p>Some progress to contract or arrange external contractors (external resourcing).</p> <p>Ministry of Housing and Urban Development / panel confidence level in development programme.</p>
Volume and nature of supply (20%)	<p>How many dwellings/units are there in the total development or applicable stage.</p> <p>Typology schedule: What is the dominant typology of the dwellings.</p> <p>Evidence of market demand for the typology and design.</p> <p>Assessment of the Type of housing (e.g. apartments or stand-alone dwellings).</p>

Location  
(20%)

Purchaser capacity to purchase houses when completed at the location.

Current undersupply of housing within the location.

Population growth within the location.

Evidence of future decline in housing development.

Purchaser capacity - household incomes.

Proximity to amenities and transport.