

**BEFORE INDEPENDENT HEARING COMMISSIONERS
IN WELLINGTON CITY**

**TE MAHERE Ā-ROHE I TŪTOHUA MŌ TE TĀONE O TE WHANGANUI-A-
TARA**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the hearing of submissions on the Wellington
City Proposed District Plan

HEARING TOPIC: Hearing 2 - Residential

**STATEMENT OF PRIMARY EVIDENCE OF BRENDON SCOTT LIGGETT
ON BEHALF OF KĀINGA ORA – HOMES AND COMMUNITIES**

(CORPORATE)

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1. EXECUTIVE SUMMARY

1.1 My name is Brendon Scott Liggett. I hold the position of Manager of Development Planning within the Urban Planning and Design Group at Kāinga Ora – Homes and Communities (**Kāinga Ora**) and am presenting this evidence on behalf of Kāinga Ora.

1.2 The key points addressed in my evidence are to provide:

- (a) A summary of the overarching Kāinga Ora submissions on the Residential Zones in the Wellington City Proposed District Plan (**PDP**), including the rationale for the relief sought, such as:
 - (i) The application of the National Policy Statement on Urban Development 2020 (**NPS-UD**) and the Resource Management (Housing Supply and Other Matters) Amendment Act 2021 (**Amendment Act**);
 - (ii) The application of walkable catchments and intensification provided in walkable catchments from rapid transit stops and centres;
 - (iii) Amendments to the Medium Density Residential and High Density Residential Zone provisions, including non-notification clauses and provisions for Multi-unit Housing;
 - (iv) The inclusion of Design Guides as a statutory document that sits within the District Plan; and
 - (v) The identification of Precincts as a qualifying matter.
- (b) Kāinga Ora considers that current and proposed planning regulations within the residential zones of Wellington City and across the Region constrain the ability to create and deliver well-functioning urban environments. If the requested relief is adopted, this will not only allow Kāinga Ora to adequately increase and improve its public housing provision, but it will also:

- (i) provide for significant development capacity and intensification in the most appropriate locations in the urban environment,
- (ii) aid consenting and delivery of all types of housing; and
- (iii) provide a choice of housing typology and size for all residents of Wellington.

2. INTRODUCTION

- 2.1 My name is Brendon Scott Liggett. I hold the position of Manager of Development Planning within the Urban Planning and Design Group at Kāinga Ora.
- 2.2 I hold a Bachelor of Planning from the University of Auckland. I have held roles in the planning profession for the past 20 years and have been involved in advising on issues regarding the Resource Management Act 1991 (**RMA**) and District Plans.
- 2.3 My experience has been set out in the evidence filed on Hearing Topic Stream 1 – Strategic Direction for this PDP.
- 2.4 I confirm that I am authorised to give corporate evidence on behalf of Kāinga Ora in respect of the PDP.

3. THE KĀINGA ORA SUBMISSIONS

- 3.1 Kāinga Ora has lodged comprehensive submissions to the PDP in relation to Residential zones. These submissions arise from the operational and development needs of Kāinga Ora, but also reflect a wider interest in delivering the strategic vision and outcomes sought through the Amendment Act and the NPS-UD.
- 3.2 The background to Kāinga Ora and the statutory context in which it operates was covered in the evidence filed on Hearing Topic Stream 1 – Strategic Direction.
- 3.3 The intent of the Kāinga Ora submission is to ensure the delivery of a planning framework in Wellington that contributes to well-functioning urban environments that are sustainable and inclusive and which

contribute towards thriving communities that provide people with good quality, affordable housing choices and support access to jobs, amenities and services.

- 3.4 Kāinga Ora has sought changes and submitted on all proposed plan changes and plan variations across the Wellington Region, with an interest in establishing a regionally consistent planning framework that responds to the regional growth projections and the natural relationships between the urban environments within the Wellington Region and gives effect to the NPS-UD and the Medium Density Residential Standards (**MDRS**) in the Amendment Act.
- 3.5 As demonstrated in the Kāinga Ora submission, mapping submitted on behalf of Kāinga Ora represent the spatial application of the underlying zones. Kāinga Ora seeks that overlays and other controls, including those that represent qualifying matters, are applied in their own spatial layer to manage the values in which they are seeking to manage. This is apparent in the submitted maps for the Residential hearing which reflect the zone and built form outcomes that Kāinga Ora seeks, with the exception of any additional intensification in the high coastal hazard areas than what has been proposed by Council.
- 3.6 The Kāinga Ora submission on the Residential zones framework in the PDP as notified sought to reduce regulatory constraints and increase housing supply as required through both the Amendment Act and the NPS-UD. However, Kāinga Ora considers the following key policy directives, as notified in the PDP, compromise the extent to which the planning provisions enable appropriate development within Wellington:
 - (a) The limited extent to which Policy 3(c) and (d) of the NPS-UD have been given effect to in Residential zones, including the corresponding density provisions and proposed walkable catchments, particularly considering Wellington City's role and function within the region and the intent of the NPS-UD to reduce barriers within planning frameworks to enable intensification;

- (b) The classification and defining of residential activity in different definitions, with different objectives, policies, rules and standards applying to each proposed definition/activity; particularly the definition and associated provisions for Multi-unit Housing in the Medium Density Residential zone (**MRZ**) and High Density Residential Zone (**HRZ**), and the definition for Assisted Housing and associated City Outcomes Contribution policy in the HRZ;
- (c) The manner in which some non-notification clauses have been applied, in which there is further opportunity for non-notification clauses to create a more enabling framework;
- (d) The inclusion of Design Guides, that are difficult and complicated to comply with, as statutory documents within the District Plan and as a listed matter of discretion, rather than including the specific design outcomes in the relevant matters of discretion for which Council is seeking to manage through the resource consenting process; and
- (e) The extent to and manner in which Character Precincts have been applied as a qualifying matter.

3.7 If the Kāinga Ora submissions on the Residential zones are adopted, particularly in relation to the above and as sought by the expert evidence submitted on behalf of Kāinga Ora, then the constraints inherent in the PDP in its notified form would be reduced, and the PDP would enable greater development capacity in the areas of Wellington City that are most appropriate for urban intensification.

4. THE APPLICATION OF THE NPS-UD

4.1 As outlined in Hearing Stream 1, within Wellington City and across the Wellington Region, Kāinga Ora has sought an increased application of HRZ and MRZ to an extent that seeks to facilitate the creation of well-functioning urban environments, which enables the delivery of a variety of homes to meet the needs of all people of Aotearoa.

4.2 While the reporting officer disagrees with the Kāinga Ora submission in this regard, Kāinga Ora considers that the intensification policies of the NPS-UD as these relates to Tier 1 environments (Policy 3) establish a minimum requirement for intensification, as demonstrated by the use of the word “at least” in reference to building heights and walkable catchments. As such, in giving effect to the objectives of the NPS-UD, Tier 1 local authorities should look for opportunities for additional intensification beyond the requirements of Policy 3 to support well-functioning urban environments, subject to limitations only to the extent necessary to appropriately give effect to Policy 4 of the NPS-UD. It is important for Council to aim, set and deliver more than the minimum, and seek a greater level of capacity and degree of certainty.

4.3 Kāinga Ora sought additional development capacity to be provided (beyond the minimum). This would be achieved by way of increased spatial application of the HRZ and increased height in walkable catchments of centres and therefore in areas that are most suitable for intensification, to give effect to the objectives of the NPS-UD (particularly Objective 1, 3, and 8). In return, this approach would support the compact urban form that the strategic direction of the notified PDP seeks to achieve in Wellington City.

5. WALKABLE CATCHMENTS AND ADDITIONAL HEIGHT AROUND CENTRES

5.1 Kāinga Ora has an inherent interest in urban development outcomes in Aotearoa, and on that basis established a Kāinga Ora principle-based approach to walkable catchments and intensification around centres and rapid transit stops in response to the NPS-UD and the Amendment Act. This is used as a starting point for local internal Kāinga Ora planning staff and experts to conduct site-specific analysis to test the principles and the appropriate response in a local context.

5.2 As specified in the evidence of Mr Heale, Mr Rae and Mr Cullen, local research, analysis, and site visits were carried out to determine appropriate walkable catchment, intensification areas and built form outcomes in Wellington City.

- 5.3 The locally-specific walkable catchment and built form outcomes sought in the Kāinga Ora submissions and expert evidence, such as heights around centres, reflects the outcomes that Kāinga Ora seeks to achieve in providing for well-functioning urban environments that are responsive to the local and regional context, and are supported by appropriate planning, urban design and economic expertise.
- 5.4 Specifically, Kāinga Ora seeks an increased spatial application of walkable catchments and additional height in residential zone in close proximity to the City Centre Zone, Metropolitan Centre Zone, proposed Town Centre Zone, and Local Centre Zone at scales that represent the role and function of these centres within the Wellington urban environment. Additional height is sought within walkable catchments, creating a step-down in the built form while allowing the most people to live where they are able to walk to meet their daily needs.
- 5.5 In relation to Town Centre Zones and Local Centre zones, Policy 3(d) does not require a walkable catchment approach to intensification. However, expert evidence presented in support of the Kāinga Ora submission and Objectives 1 and 3 of the NPS-UD agree that, as a matter of planning principle, walkable catchments are an appropriate response to enabling more people to live in areas where they are able to walk to access their daily needs.
- 5.6 In relation to rapid transit and walkable catchments, Kāinga Ora supports the classification of the Johnsonville Line as rapid transit, and the evidence of Mr Heale and Mr Rae in the walkable catchments proposed from rapid transit stops on the Johnsonville, Kāpiti and Hutt Valley Lines in giving effect to Policy 3(c)(i) of the NPS-UD.

6. RESIDENTIAL ZONE PROVISIONS

- 6.1 As a plan-user, and leader and advocate for enabling housing supply, Kāinga Ora has a strong interest in ensuring that residential zone provisions establish a simplified and enabling planning framework which provide certainty in the resource consenting process and are generally regionally and nationally consistent as appropriate.

6.2 In this context:

- (a) Kāinga Ora opposes the definition for multi-unit housing, with different policies, rules and standards, which are considered to complicate district plans and are not considered necessary to assess the effects of residential activity. It is noted that 'multi-unit housing' is defined as 4 or more residential units, and as such, the planning framework differentiates between the construction of 3 or 4 residential units as if they are different typologies, including different standards that apply when construction is of 4 or more residential units.
- (b) Kāinga Ora supports the expert evidence of Mr Heale and Mr Rae in relation to amendments sought to residential zone provisions and non-notification clauses.

7. DESIGN GUIDES

- 7.1 Kāinga Ora takes a consistent position on the use and role of design guides within the development process.
- 7.2 Kāinga Ora seeks that the Design Guides generally sit outside of the District Plan as a non-statutory document. Kāinga Ora considers that the Design Guides should assist the plan user as a guide to inform the design process for proposals and be used as a tool to assist applicants to understand how to achieve the planned outcomes of the relevant objectives, policies and assessment criteria of the plan. The planned outcomes should be clearly described and identified in objectives, policies, rules and relevant matters of discretion for activities and rules.
- 7.3 Overall, the guide is simply that, a guide, and directly including it in the assessment criteria elevates the guide to a de facto rule or standard in its own right.
- 7.4 If there are critical outcomes that the Design Guides are trying to achieve, Kāinga Ora considers these matters should be referred to in the relevant assessment criteria and/or matters of discretion and effects standards/rules in the District Plan. Design Guidelines are

more appropriate as a non-statutory planning and advisory tool that can assist the plan-user in interpreting and complying with the District Plan provisions. More importantly, any such guidelines can be updated and amended accordingly to best practice without having to go through a RMA Schedule 1 process.

8. CHARACTER PRECINCTS, MT VICTORIA NORTH TOWNSCAPE PRECINCT AND ORIENTAL BAY HEIGHT PRECINCT

8.1 Kāinga Ora understands that the Council may consider special character or character as a qualifying matter under section 77I(j) of the RMA. However, in accordance with the Kāinga Ora submissions on the PDP, Kāinga Ora considers that the proposed Character Precincts, Mt Victoria North Townscape Precinct, and the Oriental Bay Height Precinct (**Precincts**) as notified have not been appropriately assessed against the tests of section 77J and 77L of the RMA.

8.2 While Kāinga Ora considers that each precinct has not been appropriately assessed under the requirements of the RMA to be designated as “any other matter” under section 77I(j), further consideration has been given to the primary submission seeking that all of the Precincts be included in the District Plan as a Character Overlay in Part 2 - District-wide Matters. Kāinga Ora recognises that each of these “precincts” are intended to manage different values, and as such, must be considered on their own merits for their role in the District Plan and as a potential qualifying matter.

8.3 Ms Woodbridge has prepared evidence and proposed amendments to the proposed Character Area chapter and Precinct provisions that Kāinga Ora supports this approach and considers it to be the most appropriate way to manage character and precincts values in relation to the PDP.

Oriental Bay Height Precinct

8.4 Kāinga Ora recognises that Council is seeking to manage specific qualities in the Oriental Bay Height Precinct, while still enabling medium to high density development. Kāinga Ora is supportive of a medium to high density development outcome in this location.

- 8.5 The Oriental Bay Height Precinct has been proposed with an underlying Medium Density Residential Zone, even though this area is within a walkable catchment of the City Centre Zone and would therefore be subject to Policy 3(c) of the NPS-UD.
- 8.6 Kāinga Ora supports the evidence of Ms Woodbridge that a High Density Residential Zone should be provided where a precinct is subject to Policy 3(c) of the NPS-UD due to its location. Kāinga Ora supports the use of a Precinct as a planning tool to manage the place-based outcomes for the Oriental Bay Height Precinct.

Mt Victoria North Townscape Precinct

- 8.7 Kāinga Ora recognises that Council is seeking to manage significant townscape values in the Mt Victoria North Townscape Precinct. As discussed above, Kāinga Ora considers that the Council has not completed the necessary assessment to establish the area as a qualifying matter under sections 77J and 77L of the RMA.
- 8.8 Supported by the evidence of Ms Woodbridge and Mr Rae, Kāinga Ora considers that the management of significant townscape values, and the relationship of the built form to the historic St Gerard's Monastery, is more appropriately protected as a heritage area. In this regard, provisions to restrict demolition are considered appropriate due to heritage values that should be "protected" as a section 6 matter.
- 8.9 Kāinga Ora supports Ms Woodbridge evidence in the relation to the Mt Victoria North Townscape Precinct and its potential classification as a heritage area to recognise its significant townscape values.

Character Precincts

- 8.10 Kāinga Ora recognises that the Council is seeking to manage "special character" and streetscape values, which are considered to be amenity values that should have a "maintain and enhance" framework as a section 7 matter.
- 8.11 Kāinga Ora notes that Policy 6 of the NPS-UD, which specifically recognises that notable changes to perceived character and amenity

of existing urban environments resulting from the greater enablement of development envisaged by the NPS-UD will occur, and when making planning decisions **must have particular regard** to:

- (a) the planned urban built form anticipated by those RMA planning documents that have given effect to this National Policy Statement;
- (b) that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:
 - (i) May detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and
 - (ii) Are not, of themselves, an adverse effect.

8.12 Kāinga Ora considers that Council has failed to undertake a proper assessment under section 77J and 77L of the RMA, and therefore these Character Precincts, as notified by the Council in the PDP, should not be able to be identified as a qualifying matter.

8.13 The main concerns with the proposed Character Precincts are:

- (a) Council has failed to carry out a proper assessment to determine special character is a qualifying matter. Council has particularly failed to:
 - (i) Justify what makes the level of development required by Policy 3 of the NPS-UD in light of the national significance of urban development and the objectives of the NPS-UD;
 - (ii) Undertake a site-specific analysis to evaluate the greatest height and density that could be achieved while still managing character;

- (iii) Assess an appropriate range of options to give effect to higher order planning documents; and
 - (iv) Appropriately assess the cost of limiting intensification when implementing the NPS-UD Policy 3(c) and the Amendment Act.
- (b) The location of the character precincts and their general proximity to the City Centre Zone, and how Council has proposed that the Character Precincts are a qualifying matter to limit the height and density requirements of Policy 3(c)(ii) of the NPS-UD;
- (c) The application of the MRZ within the Character Precincts, in areas where they would otherwise be in the HRZ and subject to Policy 3(c) of the NPS-UD; and
- (d) Overly restrictive demolition controls for pre-1930s buildings, which reflect a “protection” (section 6) approach where the Council has deemed that it is not historic heritage¹.
- 8.14 The limitation of density within the Precincts, through the provisions of the PDP, is contrary to the purpose and principles of the Amendment Act and the NPS-UD. The Precincts seek the protection of “character” and the existing built form in neighbourhoods that are most appropriate for urban intensification and inhibit the delivery of outcomes sought by both the Amendment Act and the NPS-UD.
- 8.15 Kāinga Ora considers that more intensification should be provided in these areas, and that character, as an amenity value, can be managed while still providing for intensification in accordance with the NPS-UD. I agree with the evidence of Ms Woodbridge and Mr Rae on this matter.
- 8.16 In this regard, Kāinga Ora opposes the limitation of height and density in Policy 3(c) areas if a proper assessment has not been undertaken by the Council. If Council seeks to manage Character while still enabling intensification, Kāinga Ora considers:

¹ See paragraph 4.1, page 8, Wellington City Council s32 Evaluation – Part 2

- (a) Council must undertake the required assessment in order to determine character as a qualifying matter;
- (b) A HRZ should be enabled in Policy 3(c) areas;
- (c) A Character overlay is the most appropriate planning tool to manage the specific values; and
- (d) Less restrictive demolition controls should allow the character areas to change over time while managing character.

9. CONCLUSION

- 9.1 Wellington City has an important role within the Wellington Region, as the main employment hub and main business centre, and the planning framework should reflect this role and function and enable as many people as possible to live in areas of high demand and accessibility to jobs, amenity and services.
- 9.2 As a Tier 1 urban environment and the capital city of Aotearoa, Wellington should be guided by the objectives of the NPS-UD and seek to provide for intensification to create a well-functioning urban environment, where people live close to employment, public transport, commercial activities and community services.
- 9.3 Through its submissions on WCC PDP, Kāinga Ora is seeking to assist Wellington City to achieve the objective of creating a well-functioning urban environment and the PDP strategic direction of providing a compact urban environment.
- 9.4 The creation of a planning framework that provides for efficient use of residential land will allow for the evolution of urban environments with greater social and cultural vitality, thereby reducing deprivation in low socio-economic communities.

9.5 If the requested relief is adopted across all the five authorities in the Wellington Region, this will not only allow Kāinga Ora to adequately increase and improve its public housing provision, but can also enable the use of under-utilised areas for developments that increase the Region's overall housing stock.

Brendon Scott Liggett

16 March 2023