

IN THE MATTER OF

the Resource Management Act 1991

AND

IN THE MATTER OF

the Wellington City Proposed District
Plan, Hearing Stream 7 (Wrap-Up)

**MEMORANDUM OF COUNSEL ON BEHALF OF
ARA POUTAMA AOTEAROA THE DEPARTMENT OF CORRECTIONS**
(Submitter number 240)

Dated 7 August 2023

GREENWOOD ROCHE
LAWYERS
CHRISTCHURCH
Solicitor: M A Thomas
(monique@greenwoodroche.com)

Submitter's Solicitor
Kettlewell House
Level 3, 680 Colombo Street
PO Box 139
Christchurch
Christchurch
Phone: 03 353 0574

MAY IT PLEASE THE PANEL

- 1** This memorandum responds to Minute 27 and the Panel's invitation for parties to raise any cross hearing matters that they consider have not have been fully addressed or need to be revisited in light of subsequent hearings.
- 2** A cross hearing matter exists in relation to Council officer recommendations for the zoning of land along the southern side of Sunrise Boulevard, Tawa, which immediately adjoins Arohata Prison. The relevant hearing streams are:
 - (a) Hearing Stream 1 (HS1); and
 - (b) Hearing Stream 2 (HS2).
- 3** That matter, at least to counsel, appears to have been addressed by the reply of Mr Patterson (the s42A officer) for HS2. However if the Panel is in any doubt in that regard, Ara Poutama seeks confirmation that is the case.

Ara Poutama Submission

- 4** Ara Poutama's submission (which was heard as part of HS2) supported the notified zoning for properties in Sunrise Boulevard, adjacent to the Prison, which comprises:
 - (a) Predominantly Medium Density Residential zoning, enabling permitted building heights of up to 11m; and
 - (b) A small area of High Density Residential zoning, enabling permitted building heights of up to 21m.
- 5** The submission opposed any increase in permitted building heights beyond what was proposed in the notified zoning.
- 6** In evidence, the planner for Ara Poutata (Sean Grace) recommended that a "precinct" sit alongside that zoning, which provides a mechanism (i.e. specific objective, policy and assessment criteria) through which Ara Poutama's concerns can be appropriately accounted for in a consenting context.

- 7** In its Minute 17 (Stream 2 Follow Up)¹, the Panel gave Ara Poutama leave to provide a Section 77J evaluation of its suggested Arohata precinct, assuming an underlying HRZ zoning. That evaluation was provided in a supplementary statement of evidence by Mr Grace dated 18 April 2023. Mr Grace’s supplementary evidence also provided:
- (a) An evaluation of Ara Poutama’s proposed Sunrise Boulevard Precinct (Proposed Precinct) pursuant to Section 77J of the Act;
 - (b) Additional analysis of the Proposed Precinct against the relevant provisions of the Wellington City Proposed District Plan (PDP), pursuant to Section 32AA of the RMA.

Further Submission by Kāinga Ora

- 8** The Ara Poutama submission was opposed by Kāinga Ora in its further submission. In its submission, Kāinga Ora sought that the walkable catchment for Takapu Road Train Station be revised and that the properties along Sunrise Boulevard be rezoned to High Density Residential accordingly.
- 9** In the s42A report for HS2, Mr Patterson (the Council’s Reporting Officer) recommended:
- (a) that the Ara Poutama submission be accepted, with no change to the notified PDP zoning; and
 - (b) that Kāinga Ora’s further submission be rejected.
- 10** As set out in counsel’s legal submissions for Ara Poutama at HS2²:
- (a) In the HS1 s42A report, the Council reporting officer for that hearing recommended revision of what constitutes a “walkable catchment” for Takapu Station³. Of particular concern to Ara Poutama was that the revision (if accepted) would have the effect of extending the HDRZ along the Sunrise Boulevard properties adjoining Arohata Prison. There was no suggestion in the HS1 s42A report that any consideration had been given by the reporting officer for HS1 to the potential consequences of that revision for

¹ At [8].

² Section 4.

³ See HS1 s42A report at pages 74 and 75.

Arohata Prison or on the relief sought by Ara Poutama (which was addressed in HS2).

- (b) On the basis that that HS2 s42A report (which recommended no changes to the notified PDP report) followed the HS1 s42A report, counsel assumed that Council's position regarding the zoning of those adjoining properties (and how that zoning gives effect to the NPS-UD) remained the same as it was at notification. If, however, the Council had revised its position such that it subsequently considered that HDRZ is more appropriate along that boundary in order to give effect to the NPS-UD, then:
 - (i) that must be made explicit by the Council; and
 - (ii) in the interests of natural justice, Ara Poutama must be given fair opportunity to address that matter further in evidence.

11 The Right of Reply Response by Mr Patterson for HS2⁴ discusses the request by Kāinga Ora for significant height increases and zone expansions beyond the notified PDP⁵, including in relation to land within "Map 3" (which covers Sunrise Boulevard)⁶. Whilst that reply does not specifically reference Takapu Train Station or the submission by Ara Poutama, counsel assumes that Mr Patterson has reviewed the supplementary evidence of Mr Grace dated 18 April 2023 and remains of the recommendation that Ara Poutama's submission supporting the notified zoning of the land in Sunrise Boulevard adjacent to the Prison should be accepted and that Kainga Ora's request seeking rezoning of the properties on Sunrise Boulevard to HDRZ should be rejected.

12 However if the panel is in any doubt in regards to Mr Patterson's recommendation in that regard, Ara Poutama respectfully:

- (a) Requests that Mr Patterson be directed to clarify his recommendation in relation to the zoning of the land in Sunrise Boulevard adjacent to Arohata Prison; and

⁴ Dated 29 May 2023.

⁵ At [7] – [17].

⁶ At [22].

- (b) Seeks the ability to attend HS7 should Mr Patterson's recommendation be other than as described in paragraph 11 of this memorandum.

DATED this 7th day of August 2023



Monique Thomas

Counsel for Ara Poutama Aotearoa, the Department of Corrections