

**BEFORE INDEPENDENT HEARING COMMISSIONERS
IN WELLINGTON CITY**

**I 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 5 – District Wide (excluding NOISE)

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

(CORPORATE)

18 JULY 2023

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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 This evidence is related to district-wide matters excluding the noise provisions. I have provided separate evidence related to noise provisions.
- 1.3 The key points addressed in my evidence are to provide a summary of the overarching Kāinga Ora submissions on District-Wide Matters in the Wellington City Proposed District Plan (**PDP**), including the rationale for the relief sought, such as:
- (a) The interrelationship of District-Wide Matters with the application of the National Policy Statement on Urban Development 2020 (**NPS-UD**) and Resource Management (Housing Supply and Other Matters) Amendment Act 2021 (**Amendment Act**);
 - (b) The inclusion of flood hazard mapping as a planning map in the District Plan;
 - (c) Approach to high coastal hazard areas; and
 - (d) The importance of appropriate non-notification clauses for certain district-wide rules to enable an efficient and effective planning framework.

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 District-Wide Matters. These submissions reflect a wider interest in delivering the strategic vision and outcomes sought through the objectives and policies of the NPS-UD, including the appropriate application of Qualifying Matters and the interrelationship of District-Wide Matters with the intensification policies of the NPS-UD and the MDRS as required as the Amendment Act.
- 3.2 The background to Kāinga Ora and the statutory context in which it operates was covered in my 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 provides for well-functioning urban environments that are sustainable, 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 regional growth and the relationships between the urban environments within the Wellington Region.
- 3.5 The Kāinga Ora submission on District-Wide Matters in the PDP (as notified) sought to ensure that provisions that relate to urban development and intensification are drafted to manage development

appropriately for the matter or risk that the Council is seeking to avoid, remedy or mitigate.

3.6 Kāinga Ora considers the following key policy directives, as notified in the PDP and reflected in the section 42A report, compromise the extent to which the planning provisions enable / manage development within Wellington:

- (a) **Flood Hazard Mapping within the District Plan – Kāinga Ora** considers that locating flood hazard mapping outside of the District Plan maps provides a more responsive and effective mechanism to identify land that may be subject to flooding risk. Kāinga Ora wish to ensure that decision-making is based on the most accurate and based on the most up to date information and modelling of hazard risks, including risks from flooding. Where flooding risks are identified, Kāinga Ora supports the District Plan having objectives, policies, and rules that respond to and manage the risks of flooding when land is developed.
- (b) **Non-notification Clauses in District-Wide Chapters –** Kāinga Ora supports the use of non-notification clauses to support an efficient and effective planning framework, and considers that it is integral that non-notification clauses are appropriately provided for Controlled and Restricted Discretionary activities within District-Wide rules to ensure consistency with zone chapters and associated activity statuses; and
- (c) **Subdivision, Three Waters, Natural and Coastal Hazard, and Earthworks Provisions Relevant to Urban Development –** Kāinga Ora considers District-Wide matters and their relationship with zone and other chapters are important to achieve a well-functioning urban environment. The changes that Kāinga Ora seeks to provisions in these chapters will provide a more user-friendly, efficient and effect

Plan, and more appropriately enable and manage development in urban areas.

- 3.7 Ultimately, if the Kāinga Ora submissions on District-wide matters are accepted, then the PDP will be able to enable and manage development more efficiently which will simplify the planning framework and the resource consenting process.
- 4. DISTRICT-WIDE MATTERS IN RELATION TO THE NPS-UD AND AMENDMENT ACT**
- 4.1 As outlined in Hearing Stream 1, within Wellington City and across the Wellington region, Kāinga Ora has sought an increased application of the intensification policies of the NPS-UD to an extent that seeks to facilitate the creation of well-functioning urban environments.
- 4.2 In accordance with Policy 4 of the NPS-UD and section 771 of the RMA, Kāinga Ora recognises and supports limiting intensification only to the extent necessary to accommodate a qualifying matter. As outlined in the Kāinga Ora evidence for Hearing Stream 2, Kāinga Ora considers it is necessary that the evaluation of qualifying matters is undertaken in accordance with the requirements of the RMA in order to understand that the proposed provisions limit intensification only to the extent necessary.
- 4.3 In this regard, Kāinga Ora considers that the Council has not met the evaluation requirements under the RMA¹ to establish the most appropriate provisions to enable or manage development in relation to proposed qualifying matters. This is noted in relation to: Rule NH-R11 – Hazard sensitive activities in the inundation area of the Flood Hazard Overlay - which requires a Restricted Discretionary resource consent for construction of residential units within the inundation area (1% Annual Exceedance Probability flood).
- 4.4 Kāinga Ora does not seek to challenge the activity status of Rule NH-R11, but notes that this is a qualifying matter in relation to the enablement of the MDRS as a permitted activity in relevant residential

¹ [Sections 77J, 77K, 77L, 77P, 77Q, and 77R of the RMA.](#)

zones. Kāinga Ora considers the evaluation requirements set out in the NPS-UD and the RMA for this proposed qualifying matter have not been met. The evaluation requirements under the RMA are important and required to understand the costs and broader impacts of these limits, the impact on development capacity, and ultimately to assess that the provisions are the most appropriate. It is further noted as the Council has identified Flood Hazard -Inundation with a low hazard ranking in the PDP², and therefore would likely require evaluation under both section 77J and section 77L of the RMA.

5. FLOOD HAZARD MAPPING

- 5.1 The submission of Kāinga Ora acknowledges and supports the risk-based approach to natural hazards. It also seeks an approach to flood hazard mapping to utilise non-statutory mapping that sits outside the District Plan for flood hazards to guide plan users, with consequential changes to the Plan to reflect this change.
- 5.2 Kāinga Ora seeks that flood hazard maps sit outside of the District Plan as a dynamic map that is able to be updated with the most recent modelling and information without going through a time-consuming statutory process. Kāinga Ora considers that this approach provides local authorities with a more dynamic and responsive planning framework to manage flood risks, in both:
- (a) Providing for development where flood hazards have been reduced (for example, due to infrastructure works, or flood mitigation works as provided for under Rule NH-R2), or changes in landform from earthworks or flood events which may change the location of flood hazards); and
 - (b) Managing, or where appropriate avoiding, development where flood hazards have increased (for example, due to new and updated modelling or increased flood hazards due to climate change, or changes to the landform from flood

² [Part 2 – District-wide Matters / Hazards and Risks / Natural Hazards / Introduction](#)

events which may change the location or risks of flood hazards).

- 5.3 In some instances, by the time stormwater mitigation or infrastructure works is concluded or climate events that change the extent and/or location of flood hazards have occurred, the District Plan maps would no longer depict accurately the flood risks in that area and reliance on those maps would result in potential inefficient development of land. However, as proposed by the Council, the notified rules of the natural hazard section will continue to apply to the site when in fact the overland flow path and any associated inundation no longer would actually exist on the properties identified in the planning maps.
- 5.4 There is unnecessary cost, time and resources expended undertaking numerous plan changes under a Schedule 1 process of the RMA to amend planning maps in the District Plan in relation to changing flood hazards. Relying on maps that no longer contain current information will also impact the resource consenting process when Council is processing resource consents – the applicant and the Council processing planner will still be required to do an assessment and show evidence that the flood hazards no longer apply.
- 5.5 The Council approach also creates additional risk when considering the identification of flood hazards from new or updated information or events. This can alter the understanding of the risks arising from hazards, including where flood hazards are located or the impact of them on land, property and people. This can create a situation where the Council does not have the regulatory framework to manage development subject to flood hazard risk, which under a Schedule 1 process, can take years to change.
- 5.6 Kāinga Ora recognises the Council's current approach to flood hazards has been to include the mapping in the District Plan, but Kāinga Ora is of the view that this is no longer a best-practice approach. A range of approaches have been taken in the national context, and in some jurisdictions there has been a move away from the inclusion of flood hazard maps (spatial overlays) in a district plan.

For example, Auckland Council has applied the approach Kāinga Ora is suggesting with the in the Auckland Unitary Plan (Operative in Part) structure, and recently Tauranga City Council has taken a similar approach in its City Plan.

- 5.7 To avoid doubt, Kāinga Ora considers it is necessary to manage development, use and subdivision of land in flood hazard areas, and recognises the heightened awareness of the risk of flood hazards due to recent flood events in Aotearoa. It is in this regard that Kāinga Ora considers it to be even more important to manage development in flood hazard areas through the use of dynamic mapping combined with an appropriate planning framework within the District Plan that provides the Council with the discretion to manage development in flood hazard areas. This provides for the identification and mapping of flood hazards with the most up to date information and modelling, and a planning framework that assists the Council to ensure that flood hazards are avoided, remedied or mitigated to reduce or not increase the risk to life and property.

6. APPROACH TO HIGH COASTAL HAZARDS AREAS

- 6.1 Kāinga Ora wishes to note in its evidence on Hearing Stream 5 that Kāinga Ora recognises the ‘avoid’ policy direction of the New Zealand Coastal Policy Statement 2010 (**NZCPS**) in relation subdivision, use and development³ in high coastal hazard areas. Kāinga Ora generally supports methods, including objectives, policies, rules and standards, in the Coastal Environment Chapter that seek to avoid intensification in high coastal hazard areas as directed by Policy 25⁴ of the NZCPS.

7. NOTIFICATION PRECLUSIONS

- 7.1 Kāinga Ora supports the use of notification preclusions for plan-enabled activities to ensure provisions are effective and efficient. In circumstances where Kāinga Ora has sought notification preclusions,

³ [Policy 25 of the NZCPS 2010](#)

⁴ [Policy 25 of the NZCPS 2010](#)

it is of the view that the actual or potential effects of those activities are likely to be less than minor.

- 7.2 It is important that appropriate notification preclusions are included within the District-Wide Matters Chapter to ensure that use or development that would otherwise be non-notified activities within the zones, are not unintentionally subject to notification through the district-wide rules. Particularly when an activity will or are likely to have less than minor effects (e.g. earthworks or subdivision), and those activities are associated with the delivery of land use activities encouraged and anticipated within the zone.
- 7.3 Without the inclusion of notification preclusions requested by Kāinga Ora, the efficiency and effectiveness of the PDP rules giving effect to the Plans objectives are potentially compromised.

BRENDON SCOTT LIGGETT

18 JULY 2023