

**BEFORE INDEPENDENT HEARING COMMISSIONERS**

**AT RANGIORA / WAIMAKARIRI**

**I MUA NGĀ KAIKŌMIHANA WHAKAWĀ MOTUHAKE**

**KI RANGIORA / WAIMAKARIRI**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of the hearing of submissions and further submissions on the Proposed Waimakariri District Plan

**HEARING TOPIC:** Stream 10A

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

**(CORPORATE)**

**02 FEBRUARY 2024**

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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**).
- 1.2 Overall, Kāinga Ora generally supports the direction taken by the Council officers in the section 42A report and amendments made to date on the District Wide provisions in the Waimakariri Proposed District Plan (**PDP** or **the Plan**) in Hearing Stream 10A. However, there remain a number of key areas in the provisions that have not addressed the relief sought in the Kāinga Ora submission.
- 1.3 The key points addressed in my evidence are to explain the rationale for the relief sought, such as:
- (a) The interrelationship of noise provisions with 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**)
  - (b) The approach to development and use of land under the aircraft noise overlays of Christchurch International Airport.
  - (c) The deletion of the airport noise contour as a Qualifying Matter.

## 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, including Variation 1 and Variation 2 to the PDP.

### **3. THE KĀINGA ORA SUBMISSION**

- 3.1 Kāinga Ora has lodged comprehensive submissions on the PDP in relation to District-Wide Matters (noise). These submissions reflect Kāinga Ora's wider interest in delivering the strategic vision and outcomes sought through the objectives and policies of the NPS-UD, including the interrelationship of District Wide Matters with the intensification policies of the NPS-UD and the Medium Density Residential Standards (**MDRS**) as required by 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.
- 3.3 Kāinga Ora has sought changes and submitted on all proposed plan changes and plan variations across the Canterbury 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 Canterbury Region.
- 3.4 As discussed broadly in the Strategic Directions evidence, this evidence is also relevant for other hearing streams (for example subdivision and residential), where the issues discussed overlap or have commonalities and the Kāinga Ora position will apply consistently across the PDP and Variation 1 (**V1**) and Variation 2 (**V2**).
- 3.5 This evidence follows on from the evidence presented on behalf of Kāinga Ora in Hearing Stream 5. Much of this evidence was already covered in Hearing Stream 5, but for the Panel's ease of understanding, I have included relevant information from my evidence for Stream 5, to directly address airport noise issues and the Airport Noise Qualifying Matter for this hearing stream.

- 3.6 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.
- 3.7 Ultimately, if the Kāinga Ora submissions on District-wide matters are accepted, then the PDP will 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 Waimakariri and across the Canterbury region, Kāinga Ora has sought an increased application of the intensification policies of the NPS-UD. It considers this will better facilitate the creation of well-functioning urban environments.
- 4.2 In accordance with Policy 4 of the NPS-UD and section 77I of the RMA, Kāinga Ora recognises and supports limiting intensification only to the extent necessary to accommodate a qualifying matter. Kāinga Ora considers it is necessary that the evaluation of qualifying matters is undertaken strictly in accordance with the requirements of the RMA in order to ensure that the proposed provisions limit intensification only to the extent necessary.

#### **5. DISTRICT WIDE MATTERS IN RELATION TO AIRPORT NOISE**

- 5.1 In its primary submission on the PDP, Kāinga Ora has taken a principled approach to the application of intensification and the management of noise in areas beneath the airport noise contours. This approach sought to delete the Airport noise contour and a Qualifying Matter and remove provisions that resulted in unnecessary restrictions on development beneath the airport noise contour. In relation to managing the effects of airport noise, it is the position of Kāinga Ora that insulation requirements should only be required for noise sensitive activities impacted by the 60dB L<sub>dn</sub> contour and above.

- 5.2 The proposed noise provisions in the PDP raise for consideration the appropriate balance to be struck between providing for residential development and intensification within existing urban areas (as required by the NPS-UD) and maintaining the health and amenity of residents having regard to the adverse effects that can be generated by airport activities and flight paths). That balance focuses consideration on who (i.e.: the effects generator or receiver) equitably should be responsible for responding to and addressing any adverse health and amenity effects that may arise from the proximity of residential development and flight paths routes.
- 5.3 Overall, Kāinga Ora generally supports the direction taken by the Council officers in the section 42A report and amendments made to date. However, Kāinga Ora considers there remain a number of key areas that have not addressed the Kāinga Ora concerns and relief sought in its submission. In particular, Kāinga Ora opposes:
- (a) The proposed noise insulation requirements for dwellings beneath the airport noise overlay – while Kāinga Ora acknowledges that the aircraft noise overlays are based on the contour modelling in relation to the Christchurch International Airport Limited (**CIAL**) designation, Kāinga Ora is opposed to any proposals requiring insulation from 50dB L<sub>dn</sub>. Kāinga Ora seeks that the provisions within the noise overlay be focussed on setting appropriate standards for noise insulation based on the mitigation of health effects for occupants of noise sensitive activities.
  - (b) The identification of the airport noise contour as a Qualifying Matter.
- 5.4 It is acknowledged, however, that unmitigated noise from airport activities and flight paths have the potential to adversely affect the health and wellbeing of occupiers of noise sensitive land use activities beneath flight paths.
- 5.5 Where Kāinga Ora diverges with the position of CIAL and, to a lesser extent, the Council, is with respect to:

- (a) Whether there is any evidential basis, let alone an adequate one, establishing a reverse sensitivity effect on the airport or its noise generating activities;
- (b) Whether there is any basis for imposing controls on noise sensitive land uses in the Plan;
- (c) If so, the type and spatial extent of any controls that are necessary and appropriate to manage adverse effects; and
- (d) Who should equitably bear the burden (cost) of managing these effects, particularly in existing residential areas.

5.6 In relation to (a) above, Kāinga Ora does not:

- (a) consider that there is sufficient justification in the s32A report for applying additional acoustic insulation requirements to residential development impacted by the 50dBA contour. Kāinga Ora therefore supports the Council not imposing acoustic insulation requirements to residential activities within a residential zone beneath the 50dBA contour.
- (b) see any information that demonstrates that complaints from residential living below the airport noise contour (or beneath a broader flight path) have resulted in the airport needing to alter their operations to a point where adversely impacts the efficiency, effectiveness or safety of their operations.

5.7 In respect of [5.5](b) above, Kāinga Ora does not consider there is an ability to assess in section 32 terms whether there is a basis for imposing controls on receivers without understanding the actual levels involved, the potential health risks; the options to mitigate at source or between source and receiver; and how potential adverse health effects for existing receivers will be addressed by the relief sought by CIAL.

5.8 In relation to [5.5](c) and [5.5](d) above, the Kāinga Ora view is that the issue could be managed through:

- (a) The airport mitigating their effects at source and as far as is practicable (e.g.: by adopting the Best Practicable Option) (“**At**

**Source Mitigation**”), which I note, they have an obligation to do under section 16 of the RMA.

- (b) As part of its best practicable option the airport undertaking works in areas where noise sensitive land uses exist or are provided for by the underlying zoning, and
- (c) only where necessary, introducing controls in the receiving environment to deal with effects that cannot be internalised following the adoption of the BPO (“**Receiver Mitigation**”).

5.9 Kāinga Ora considers there are a range of mechanisms that might be used to reduce the noise generation at source and to attenuate potential adverse effects in the receiving environment, for example:

- (a) Removing or reducing the nuisance at source (e.g.: technological improvements, and noise management practises that minimise noise and prevent it from increasing over time); or
- (b) Undertaking mitigation works in relation to sensitive receiving activities (e.g.: acoustic insulation and ventilation systems).

5.10 Under the PDP as proposed, there is an obligation on landowners and occupiers to undertake Receiver Mitigation but no corresponding obligation on the airport to provide At Source Mitigation at the levels commensurate with receiver mitigation the is sought by CIAL. This is despite section 16 expressly requiring CIAL to adopt the BPO to ensure that the emission of noise does not exceed a reasonable level. I acknowledge, of course, where CIAL have appropriately taken partial responsibility for funding some mitigation within the receiving environment (e.g.: under the Acoustic Treatment Programme).

5.11 Kāinga Ora considers that mitigation should primarily be the physical and/or financial responsibility of the infrastructure providers and in some instances landowners and developers, as described below:

- (a) The landowner/developer should be responsible where land use zoning is changed from providing for non-noise sensitive land uses to enabling new noise sensitive land uses within the

contour (e.g.: through a plan change to introduce urban zoning on land where the land was previously zoned rural or industrial).

- (b) The airport should be responsible for mitigating potential adverse health effects of noise within the noise contours on sensitive land uses where:
  - (i) New infrastructure is constructed or existing infrastructure is upgraded;
  - (ii) A noise sensitive land use exists beneath the contour where health effects are experienced, and that land use is to be retained, expanded, intensified or renovated;
  - (iii) Where the operation of the airport infrastructure or use of flight paths generates potential adverse health effects on existing sensitive receivers; or
  - (iv) If land is rezoned from a zone that primarily facilitates development for noise sensitive land use activities to a zone that enables the intensification of such sensitive land use activities beneath the contour where health effects are experienced.
- (c) Where acoustic mitigation is required for new noise sensitive activities, existing noise sensitive activities should be offered a commensurate mitigation package funded by CIAL and is implemented within 24 months of rules requiring mitigation by new noise sensitive receivers becoming operative.

## **6. APPROACH TO NOISE PROVISIONS IN WAIMAKARIRI PDP**

- 6.1 As a plan-user, facilitator, and supplier of housing and urban development within the Waimakariri District, Kāinga Ora has an interest in ensuring that the district wide provisions establish a simplified and enabling planning framework, provide certainty in the resource consenting process, and are efficient and effective.



- 6.2 Kāinga Ora generally supports the direction taken by the Council officers in the Section 42A report and amendments made to date, however, Kāinga Ora considers that the amendments have not addressed all of the concerns and relief sought in its submission and that will result in unintended consequences across the Waimakariri Region.
- 6.3 From a Kāinga Ora perspective, the amended planning framework does not provide certainty with regard to development and deters urban development of sites within the proximity of moderate and high noise generating activities such as motorways, rail and the airport.

*Reverse Sensitivity Effects*

- 6.4 Kāinga Ora questions the reverse sensitivity provisions in the PDP relating to the management of noise, in that it is not aware of any evidence of existing airport activities being restricted due to the presence of sensitive activities nearby. The current wording of the objectives and matters of discretion has the potential to disproportionately compromise development potential where there is no actual adverse reverse sensitivity effect.
- 6.5 The proposed wording in the Plan promotes notification for noise sensitive development within the 50dB L<sub>dn</sub> contour (and above) despite controls being set out within the Plan to manage the acoustic environment. Kāinga Ora considers that the effects of reverse sensitivity should be assessed on a case by case basis, with a focus on the health and well-being of people and communities, and considered in relation to the specific land use and development proposed. As identified in the evidence of Mr Lindenberg, health and wellbeing is not compromised within a well-designed dwelling.
- 6.6 Kāinga Ora considers that, to the extent that such rules are warranted, they should be refined to apply to health and amenity effects and not to reverse sensitivity.
- 6.7 Kāinga Ora opposes the provisions which reference reverse sensitivity as these have the potential to imply requirements for affected party approval, and should instead be assessed on the compatibility of land

uses. Kāinga Ora is unclear on how the airport and its activities are affected by the landowner or occupant specifying an internal acoustic environment different to that specified by the rules of the Plan.

- 6.8 To establish that there is a risk of reverse sensitivity, the airport or Council would need to demonstrate that noise complaints from new land uses are likely to result in unreasonable restrictions being placed upon existing network operations. Kāinga Ora is not aware of any evidence demonstrating that this is the case. Simply having to field and respond to complaints is not enough.

*Appropriate land use and development adjacent to infrastructure*

- 6.9 As it stands at the moment, the controls notified in the PDP will impact on landowners and occupiers, and in practice will both restrict, and add cost to, the activities that can be undertaken on land. This is of particular importance on land that has not been designated, and where CIAL are not proposing to mitigate all effects at source or through funding improvements to existing dwellings (which are already subject to an allegedly unacceptable level of noise and will continue to be if the CIAL position is to be adopted).
- 6.10 Given that the airport have elected not to acquire the land that the PDP has deemed as affected, it is appropriate for any regulation to be applied only where there is an evidential basis that establishes a need for that regulation.
- 6.11 The rules and standards as amended in the section 42A report imposes mitigation requirements on urban development within areas where development would otherwise be appropriate. Kāinga Ora opposes any provision which would add to the cost of development where the effects may not be relevant, namely the requirement for receiving environment mitigation at levels lower than could otherwise be reasonably expected to occur within the environment.

*Acoustic Insulation and Ventilation Requirements*

- 6.12 Kāinga Ora considers that the proposed acoustic treatment and ventilation requirements can be simplified. As it stands, the proposed

standards impose an onerous cost on development in excess of what is necessary, while no similar requirement is placed on noise generating activities to avoid the adverse health effects on communities that their activities generate under the notified PDP.

6.13 The provisions proposed and requested raise for consideration the appropriate balance to be struck between continuing to provide for residential development within existing urban areas, and maintaining the health and amenity of residents having regard to the adverse effects that can be generated by airport activities on the other. The noise standards as addressed in the evidence set out by Mr Lindenberg, Mr Styles and Mr Jimmieson include providing a permitted activity pathway to provide certainty and minimisation of compliance costs for property owners and developers.

6.14

6.15 As identified above, in Kāinga Ora's view, mitigation should in many instances be the physical and/or financial responsibility of the infrastructure providers and landowner/developers.

## **7. AIRPORT NOISE CONTOUR AS A QUALIFYING MATTER**

7.1 Kāinga Ora consider that the proposed district plan rules relating to noise (subject to the relief sought in the Kāinga Ora submission being accepted), is a more appropriate method to responding to the exposure to aircraft noise than applying density restrictions as a Qualifying Matter. Effectively the rule framework, is a more appropriate method to managing adverse effects, and the airport noise contour being a qualifying matter will provide no additional benefit.

7.2 Kāinga Ora note that there are no provisions proposed that would protect existing communities to the level sought by CIAL in its relief. Kāinga Ora does not consider the management of noise as proposed is supported by evidence to justify a Qualifying Matter under s77I or that the assessment has met the tests of s77L to become a Qualifying Matter.

**BRENDON SCOTT LIGGETT**

05 February 2024