

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 5

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

(CORPORATE)

07 AUGUST 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**).
- 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 5. 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 provide a summary of the overarching Kāinga Ora submissions on the District-Wide Matters in the PDP, including 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 inclusion of noise provisions adjacent to State highways and rail corridors in the PDP.
 - (c) The approach to development and use of land under the aircraft noise overlays of Christchurch International Airport.
 - (d) The transport provisions as these relate to access design standards in existing residential neighbourhoods.
 - (e) The departure from the National Policy Statement on Electricity Transmission (**NPS-ET**) with regard to other lines and the required setbacks.

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. 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 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 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 771 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 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 adjacent to nationally significant infrastructure. This approach has been used as a starting point to

conduct location-specific analysis to test the principles and the appropriate response within a local context.

- 5.2 The proposed noise provisions in the PDP raise for consideration the appropriate balance to be struck between maximising transport efficiency through locating urban development near transport routes (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 transport infrastructure (encompassing of rail, road and air), noting also the reduction in greenhouse gas emissions that follows from locating urban environments nearer to transport (as highlighted in NPS-UD Objective 8). That balance focuses consideration of 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 transport 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 'blanket' distance corridors from state highways, arterial road, strategic road and rail designation – the effects generated from rail and state highways require a set distance from the activity which, as identified in the PDP, have not been modelled or mapped based on the experienced dBA across the urban areas to establish the effects on health and amenity. This blanket approach is not appropriate when the outcome is overinclusive and imposes consenting obligations and costs on urban development without adequate cost-benefit analysis. Kāinga Ora seeks that the corridors are spatially modelled to identify the actual locations where effects may be experienced, and, if they are to result in regulation applying to receivers (rather than the generators), then they should be shown in the PDP. Furthermore, considering that the existing environment around these transport corridors already includes residential

activity, any ongoing use and development of this land for urban living is not considered by Kāinga Ora to be out of character.

- (b) 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 the decibel limits requiring insulation from 50dBA Ldn. Kāinga Ora seeks that the provisions within the noise overlay be focussed on setting appropriate standards for noise insulation based on the health and amenity effects as addressed in the expert evidence prepared in conjunction with this evidence.

5.4 It is acknowledged, however, that:

- (a) Unmitigated noise and vibration from transportation activities and corridors has the potential to adversely affect the health and wellbeing of occupiers of noise sensitive land use activities adjacent to those corridors; and
- (b) In addition to other methods outside of the Plan, District Plan rules (including terms and conditions of transport designations that mitigate adverse health effects at source) may be an appropriate mechanism to manage the potential for adverse effects of noise and vibration from transportation corridors on noise sensitive land uses.

5.5 Where Kāinga Ora diverges with the position of the transport authorities and, to a lesser extent, the Council, is with respect to:

- (a) Whether there is any evidential basis, or an adequate one, establishing a reverse sensitivity effect on the transport networks or 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 has not seen any information that demonstrates a reverse sensitivity effect arises at the interface between the transport environment, commercial, industrial and Mixed Use Zones and noise sensitive activities.
- 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 infrastructure providers.
- 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 transport authorities mitigating their effects at source and as far as is practicable (e.g.: by adopting the Best Practicable Option) (“**At Source Mitigation**”).
 - (b) Undertaking works in areas where noise sensitive land uses exist or are provided for by the underlying zoning, and, only where necessary, introducing controls in the receiving environment to deal with effects that cannot be internalised following the adoption of the BPO (“**Receiving Environment Mitigation**”), which I note, they have an obligation to do under section 16 of the RMA.
- 5.9 Kāinga Ora considers there are a range of mechanisms that might be used to reduce the noise or vibration 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.: by improving the quality of the road or rail surface, imposing speed limits and implementing maintenance and repair regimes that minimise noise and vibration and prevent them from increasing over time);
- (b) Reducing noise levels through constructing walls or bunds; or
- (c) Undertaking mitigation works in relation to sensitive receiving activities (e.g.: acoustic insulation and ventilation systems; and structural measures to absorb and mitigate potential vibration).

5.10 Under the PDP as proposed, there is an obligation on landowners and occupiers to undertake Receiving Environment Mitigation but no corresponding obligation on transport authorities or noise generating activities to provide At Source Mitigation. This is despite section 16 expressly requiring the transport authorities to adopt the BPO to ensure that the emission of noise does not exceed a reasonable level. I acknowledge, of course, where requiring authorities have appropriately taken responsibility for funding Receiving Environment Mitigation (e.g.: that undertaken by CIAL, 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. It is appreciated that this allocation of responsibility will require a broader range of methods than the PDP provisions that are subject to this hearing and that such a regime would most appropriately be introduced through other methods outside of the Plan:

- (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 adjacent to an existing transportation corridor (e.g.: through a plan change to introduce urban zoning on land alongside an existing major transport route where the land was previously zoned rural or industrial).

- (b) The transport authorities should be responsible for mitigating potential adverse health effects of noise and vibration on adjacent sensitive land uses where:
 - (i) New infrastructure is constructed or existing infrastructure is upgraded (e.g.: road upgrades involving additional traffic lanes and/or upgrades which have the effect of bringing traffic noise closer to existing sensitive activities);
 - (ii) A noise sensitive land use exists adjacent to an existing transportation corridor and that land use is to be retained, expanded, intensified or renovated;
 - (iii) Where the operation of the infrastructure 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 next to existing transportation corridors.

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 infrastructure 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 adjacent to or in the proximity of high and moderate noise generating activities 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 transport authorities 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 transport authorities or Council would need to demonstrate that noise complaints

from new land uses are likely to result in unreasonable restrictions being placed upon network operations. Kāinga Ora has received no evidence that this is the case. Simply have to deal with complaints is not enough.

- 6.9 Further, at this stage Council has not yet introduced evidence-based reasoning for the protection of transport authorities from appropriate development. Further, a zoning application is considered inappropriate when the policy should relate to effects and the dBA level within noise sensitive dwellings. It is considered that spatial mapping can be done and can appropriately identify the spatial extent of the noise effects rather than a blanket application through the Plan provisions.

Appropriate land use and development adjacent to infrastructure

- 6.10 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 the relevant authorities are not proposing to mitigate 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), with the exception of the acoustic treatment programme in relation to Christchurch International Airport.
- 6.11 Given that the transport authorities have elected not to acquire the land in proximity to their networks 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.
- 6.12 Further, it is possible to model the noise effects area relatively precisely. If the noise distances are measured based on a dBA scale rather than a set distance, then this will more appropriately model the effects and whether non-source mitigation is required for the development of noise sensitive activities.
- 6.13 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. Kāinga Ora considers that the mapping as proposed with the exception of the airport noise contour provisions has not been appropriately demonstrated within the section 32A report or any evidence based assessments.

Acoustic Insulation and Ventilation Requirements

- 6.14 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.
- 6.15 The provisions proposed and requested raise for consideration the appropriate balance to be struck between maximising transport efficiency through locating urban development near transport routes and noise generating activities on the one hand, and maintaining the health and amenity of residents having regard to the adverse effects that can be generated by transport infrastructure 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.
- 6.16 It is also noted that technological changes and innovation are substantially changing the noise generating activities and such innovations have the potential to drastically reduce the noise associated with activities over time and as such there is the potential for these spatial extents to fluctuate over time, rather than for fixed spatial applications to be applied (e.g. electric vehicle uptake).
- 6.17 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. DISTRICT WIDE MATTERS IN RELATION TO TRANSPORT

- 7.1 Kāinga Ora has also submitted on the transport provisions within the PDP relating to access standards. As outlined in my evidence on Hearing Stream 1, much of the development undertaken by Kāinga Ora, is redevelopment of existing urban sites, in existing urban areas. The concerns raised by Kāinga Ora in relation to the transport provisions, largely relate to the type of medium density residential and infill developments likely to be carried out within the existing urban areas.
- 7.2 It is the view of Kāinga Ora that the transport provisions relating to access standards appear to be targeted towards new subdivision and greenfield development, rather than urban infill development and this particular area has not been appropriately addressed through the proposed rule framework.
- 7.3 Kāinga Ora seeks that access design should be based upon New Zealand standards and functional and evidential thresholds to allow for the movement of vehicles where appropriate for infill development and should provide clear guidance to plan users.
- 7.4 The suggested amendments, as identified through the expert evidence prepared by Ms Dale and Ms Williams reflect the access requirements that are believed to be necessary in urban infill environments as opposed to the blanket approach proposed within the PDP.

8. DISTRICT WIDE MATTERS IN RELATION TO ENERGY AND INFRASTRUCTURE

- 8.1 Kāinga Ora generally supports the direction taken by the Council officers in the Section 42A report as it relates to the Energy and Infrastructure 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 this has the potential to result in unintended consequences across the Waimakariri Region.
- 8.2 Kāinga Ora supports the Energy and Infrastructure provisions insofar as they align with the NPS-ET, and avoid duplication of the New Zealand Electrical Code of Practice for Safe Electrical Distance

(NZECP 34:2001) with regards to the setback requirements in the NPS-ET. However, it is the view of Kāinga Ora that the setback distances should only apply to the National Grid, not other lines. Kāinga Ora does not consider that there needs to be greater setbacks controlling density and development, above what is required by the NPS-ET and NZECP 34: 2001. This is consistent with other District Plans across the country.

- 8.3 As stated above under noise, Kāinga Ora opposes the requirement for reverse sensitivity considerations within the Plan. The PDP as notified requires setbacks beyond the NPS-ET and the use of reverse sensitivity provisions which place the onus upon applicants to provide for these setbacks where no evidential information for a greater setback equivalent to; or beyond the NPS-ET, has been provided.
- 8.4 Kāinga Ora considers that, to the extent that such rules are warranted, they should be refined to effects and not to reverse sensitivity.

9. DISTRICT WIDE MATTERS IN RELATION TO EARTHWORKS

- 9.1 Kāinga Ora have sought amendments to the EW rules where there is concern that low thresholds in terms of volumes, setbacks and cut and fill depths may require unnecessary consents for the majority of typical residential developments. Particularly given an erosion and sediment control plan would already be required by the building consent process, and this would result in a duplication of process. Earthworks are a normal and necessary component of every residential site development.

BRENDON SCOTT LIGGETT

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