

Under the Resource Management Act 1991

In the matter of the Central Hawkes Bay Proposed District Plan

Statement of evidence of Brendon Scott Liggett (Corporate)

17 March 2022

Hearing Stream 2 – 30 March 2022



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1 Introduction

- 1.1 My name is Brendon Scott Liggett. I hold the position of Manager Development Planning at Kāinga Ora – Homes and Communities. I have 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 RMA and District Plans.
- 1.2 My experience includes four years in various planning roles within local government. For the past 16 years I have been employed by Kāinga Ora (formerly as Housing New Zealand).
- 1.3 I have been providing development planning expertise within Kāinga Ora (including as Housing New Zealand) since 2006. In this role I have:
- (a) Undertaken assessment and identification of redevelopment land within the portfolio.
 - (b) Provided input into Kāinga Ora's strategic land planning, including the Asset Management Strategy, various investment and land use frameworks, and various structure plan processes.
 - (c) Provided advice on, and management of, the regulatory planning processes associated with Kāinga Ora's residential development projects.
 - (d) Managed engagement with local authorities, local communities and other agencies on matters relating to regulatory policy frameworks associated with residential development.
 - (e) Provided advice on, and management of, Kāinga Ora's input into strategic planning activities including plan changes and plan review processes throughout the country, including technical lead and project management of Kāinga Ora's submissions to the Proposed Auckland Unitary Plan and Christchurch District Plan review, as well as more recent plan review processes throughout the country.

2 Scope of evidence

- 2.1 Because this is my first statement of evidence in this particular process, I first provide some high level information about Kāinga Ora and its interest in the Central Hawke's Bay Proposed District Plan. I then provide evidence supporting Kāinga Ora's position on the urban development and noise issues raised in this hearing stream.

3 Background to Kāinga Ora

- 3.1 Kāinga Ora was formed in 2019 as a statutory entity established under the Kāinga Ora-Homes and Communities Act 2019, and brings together Housing New Zealand Corporation, HLC (2017) Ltd and parts of the KiwiBuild Unit. Kāinga Ora is a Crown entity under the Crown Entities Act 2004 and is required to give effect to Government policy.
- 3.2 The first Government Policy Statement on Housing and Urban Development ("GPS-HUD") was published on 28 September 2021 and is intended to provide a shared vision and direction across housing and urban development and to guide and inform the actions of all those who contribute. It sets out how Government and other parts of the housing and urban development system will work together to realise this vision. The GPS-HUD will shape future government policy, investment and will direct Kāinga Ora's work programme.
- 3.3 Kāinga Ora is the Government's delivery agency for housing and urban development. Kāinga Ora therefore works across the entire housing spectrum to build complete, diverse communities that enable New Zealanders from all backgrounds to have similar opportunities in life. As a result, Kāinga Ora has two core roles:
- (a) being a world class public housing landlord; and
 - (b) leading and coordinating urban development projects.
- 3.4 Kāinga Ora's statutory objective requires it to contribute to sustainable, inclusive, and thriving communities that:
- (a) provide people with good quality, affordable housing choices that meet diverse needs;
 - (b) support good access to jobs, amenities, and services; and

- (c) otherwise sustain or enhance the overall economic, social, environmental, and cultural wellbeing of current and future generations.

3.5 Kāinga Ora owns or manages approximately 68,100 properties throughout New Zealand.¹ This includes its Community Group and Transitional Housing.

3.6 In Central Hawkes Bay Kāinga Ora owns several properties in Otane, Waipawa, and Takapau. It has 33 properties in Waipukurau.

4 Housing Demand

4.1 Kāinga Ora national statistics show that there are some broad trends emerging in terms of housing demand:

- (a) Single parent and single-person households make up the majority of most tenanted households.
- (b) 80% of demand on the MSD housing register is for one- and two-bedroom homes.
- (c) Increasing demand for all types and sizes of public housing generally, including larger family homes.

4.2 Changes in the tenant base have been reflective of changes in the demographic makeup of society, from primarily nuclear families to larger families, single parents with children and single-person households. This has meant that there has been a marked change in the type of public housing that is required by Kāinga Ora's tenant base. Demand has increased over time for:

- (a) Single bedroom housing required for single persons, couples, the elderly or disabled; and
- (b) Larger homes with four or more bedrooms required to house larger families.

4.3 Alongside this, demand for housing is generally outpacing supply. The number of applicants on the Housing Register across New Zealand has

¹ Annual Report 2020-2021, Kāinga Ora – Homes and Communities.

increased from 3,877 applicants in June 2016 to 24,474 applicants in June 2021. In the last year alone, there has been a 32% increase in applicants on the Housing Register.

5 National Planning Context

- 5.1 Through its active involvement in plan-making and resource consenting activities across New Zealand, Kāinga Ora is also informed by national direction. Given the alignment with its own statutory objectives, Kāinga Ora works alongside other Government agencies and Councils in facilitating reform within the housing and development sectors and to ensure planning documents reflect, and appropriately give effect to, direction in the National Policy Statement for Urban Development 2020 (“NPS-UD”).
- 5.2 In this regard, Kāinga Ora supports the Council’s approach to seeking alignment with the NPS-UD, even though it is not a Tier 3 Local Authority. I see the following policies as important matters for the Council to implement (paraphrased):
- (a) Planning decisions must contribute to well-functioning urban environments (Policy 1);
 - (b) Councils must provide sufficient development capacity to meet demand for housing and business land over the short, medium, and long terms (Policy 2);
 - (c) Regional Policy Statements and District Plans must enable heights and densities of urban form commensurate with the greater of: the level of accessibility to commercial activities and community services, or the relative demand for housing and business (Policy 5); and
 - (d) Plans must not set minimum car parking rate requirements, other than for accessible car parks (Policy 11).

6 Urban environment issues

- 6.1 Kāinga Ora’s submission primarily sought changes to the Urban Form and Development, General Residential and Commercial chapters of the PDP. The submission is motivated by a concern that the provisions of these

chapters do not in general terms sufficiently enable adequate residential intensification nor do they sufficiently provide for housing choice.

7 Noise Issues

7.1 The noise provisions raise for consideration the appropriate balance to be struck in maintaining the health and amenity of residents having regard to the adverse effects that can be generated by such transport infrastructure. That involves consideration of who (i.e.: the effects generator or receiver) 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.

7.2 It is acknowledged that:

- (a) Noise and vibration from transportation corridors may have the potential to adversely affect the health and well being of occupiers of noise sensitive land use activities adjacent to those corridors.
- (b) In addition to other methods outside of the Plan, district plan rules (including terms and conditions of transport designations) may be an appropriate mechanism to manage the potential for adverse effects of noise and vibration from transportation corridors on noise sensitive land uses.

7.3 However, overall, Kāinga Ora opposes the extent and nature of controls proposed. It considers that the Provisions are not supported by sufficient evidence to warrant being upheld and asks that they variously be deleted or modified. It is surprised at comments in the s 42A report that suggest that Kāinga Ora should produce evidence to justify removing provisions. To the contrary, it is for the Council and transport authorities to justify provisions as the most appropriate.

7.4 Where Kāinga Ora diverges with the position of the transport authorities is with respect to:

- (a) Whether there is any evidential basis establishing a reverse sensitivity effect on the transport networks;
- (b) Whether there is any evidential basis establishing a health and wellbeing effect on noise sensitive land uses;

- (c) Whether there is any basis for imposing controls on noise sensitive land uses in the Central Hawke's Bay;
- (d) If so, the type and spatial extent of any controls that are necessary and appropriate to manage adverse effects; and
- (e) Who should bear the burden (cost) of managing these effects, particularly in existing residential areas.

7.5 In relation to (a) above, I have not seen any information that demonstrates a reverse sensitivity effect arises at the interface between the transport environment and noise sensitive activities.

7.6 In respect to (b) above, I have not seen any information that demonstrates the actual or future level of noise exposure that will be experienced beyond the state highway / railway corridor after the best practicable option ("BPO") has been adopted to internalise effects. That is, I am not aware of evidence which establishes that the noise levels are or will be high enough to create an adverse health effect that would require mitigation once the BPO has been adopted at source. Further, I am not aware of evidence that demonstrates that the expansive proposed margins along the state highway and rail networks are required to manage noise levels.

7.7 In respect of (c), I do not consider there is an ability to assess in section 32 terms whether there is a basis for imposing controls without, as starting point, the information in paragraph 7.6 above.

7.8 In relation to (d) and (e), Kāinga Ora's 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").

- 7.9 Kāinga Ora considers there are a range of mechanisms that might be used to reduce the 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, managing networks to limit the potential for sleep disturbance where possible);
 - (b) Reducing transfer of noise beyond the source and overall noise levels received by sensitive activities through constructing walls or bunds;
 - (c) Undertaking mitigation works in the sensitive receiving activities (e.g.: acoustic insulation and ventilation systems; and structural measures to absorb and mitigate potential vibration); or
 - (d) Ensuring that new greenfields (e.g.: rural) land adjacent to existing noise and vibration sources is not zoned for sensitive urban activities unless suitable mitigation measures are incorporated as part of the proposal for new urban zoning.
- 7.10 In Kāinga Ora's view, mitigation should be the physical and/or financial responsibility of the infrastructure providers and landowner/developers as follows. It is appreciated that this allocation of responsibility will require a broader range of methods than the 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 sensitive land uses to enabling 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 (for example, 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; or
 - (iii) 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.
- (c) Where the situation in (a) arises (i.e. rezoning of land from a zone that does not primarily facilitate development for noise sensitive land use activities to an urban zone primarily facilitating the development of new noise sensitive land use activities next to existing transportation corridors) then:
- (i) Any decision whether to rezone land should take account of potential incompatibility between the incoming noise sensitive land use activities and the existing transport corridor.
 - (ii) Where land is rezoned and noise walls or bunds are required in order to ensure an appropriate noise environment for that rezoned land, the developer/landowner should fund the construction and maintenance of the wall or bund.
 - (iii) Where land is rezoned, the new urban zone provisions may require mitigation measures such as those identified above to be incorporated into any new noise sensitive activities, at the cost of the developer/landowner.
 - (iv) Once land has been rezoned:
 - (A) The transport authority should mitigate noise and vibration effects through the items listed in

paragraph 7.9 above, with maintenance and repair being undertaken at all times; and

- (B) Additional measures (including those specified in paragraph 7.9(b) and (c)) may need to be implemented by transport authorities over time where traffic intensity on the road or railway changes, with the consequence that potential adverse health effects may arise from increased levels of noise and/or vibration.

8 Background to Kāinga Ora's involvement in issues regarding noise and vibration controls nationwide

8.1 While the NPS-UD directive has made resolving these issues particularly important, the issue is not a new one, or particular to Central Hawkes Bay. There has been ongoing discussion between Waka Kotahi, Kiwi Rail and Kāinga Ora as to the need for and appropriate content of such provisions in district planning documents and plan reviews throughout New Zealand.

8.2 Waka Kotahi, KiwiRail and Kāinga Ora are currently involved in the following proceedings regarding similar provisions:

- (a) Environment Court appeals by Waka Kotahi and KiwiRail against the decision of the commissioners on Whangarei City Council's Urban and Services Plan Changes who declined to introduce such provisions (currently subject to mediation with a proposed timetable for additional work to be undertaken).
- (b) First instance hearings on Christchurch Plan Change 5 (in respect of which the hearing on this topic has been adjourned to enable discussions to occur).
- (c) Submissions on the Selwyn Proposed District Plan.
- (d) First instance hearings on the New Plymouth Proposed District Plan (in respect of which the hearing on this topic has been delayed to enable discussions to occur).
- (e) First instance hearings on the Porirua Proposed District Plan.

- 8.3 The issue of management of noise and vibrations effects resulting from land transport activities has also had first instance hearings before commissioners on the Proposed Waikato District Plan. The decision for this was released on 17 January 2022. In that context, the Panel declined to introduce similar provisions and instead adopted the setback provisions originally notified in the plan.
- 8.4 Kāinga Ora considers it preferable both:
- (a) For government entities be in a position to present a consistent and agreed approach to councils, hearing panels and courts on policy matters such as this.
 - (b) For topics that raise similar issues throughout the country to be addressed and resolved at a national level to ensure a consistent approach.
- 8.5 Kāinga Ora has therefore been in discussion and correspondence with Waka Kotahi and KiwiRail, with the aim that the parties can promote a consistent approach around the country. Kāinga Ora considers that such an agreement would usefully reduce debate regarding the provisions.
- 8.6 Currently the discussion is primarily being progressed through Environment Court mediation proceedings and is therefore subject to privilege, limiting my ability to elaborate further on potential solutions being discussed.

Date: 17 March 2022

A handwritten signature in black ink, appearing to be 'BSL', written over a horizontal dotted line.

Brendon Scott Liggett