BEFORE INDEPENDENT HEARING COMMISSIONERS
AT LOWER HUTT

I MUA NGĀ KAIKŌMIHANA WHAKAWĀ MOTUHAKE
TE AWA KAIRANGI

IN THE MATTER	**of the Resource Management Act 1991**
AND	
IN THE MATTER	**of the hearing of submissions on Plan Change 56 to the City of Lower Hutt District Plan**

HEARING TOPIC:	**Plan Change 56: Enabling Intensification in Residential and Commercial Areas**

LEGAL SUBMISSIONS ON BEHALF OF KĀINGA ORA – HOMES AND COMMUNITIES

21 APRIL 2023

Instructing solicitor:
C E Kirman
Special Counsel
Kāinga Ora - Homes and Communities
PO Box 14594
Central Auckland 1051
E: claire.kirman@Kāingaora.govt.nz

Counsel Instructed:
N M H Whittington
Hawkestone Chambers
PO Box 12091
Thorndon
Wellington 6140
E. nick.whittington@hawkestone.co.nz

1. KĀINGA ORA – HOMES AND COMMUNITIES

1.1 Kāinga Ora is a participant in various intensification streamlined planning processes (**ISPP**) across the region and country, which are designed to give effect to the National Policy Statement on Urban Development 2020 (**NPS-UD**") as required by the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 ("**HSEA**"). The extent and tenor of Kāinga Ora participation in these processes reflects its commitment both to achieving its statutory mandate and to supporting territorial authorities to take a strategic and enabling approach to the provision of housing and the establishment of sustainable, inclusive and thriving communities.

1.2 Kāinga Ora and its predecessor agencies have a long history of building homes and creating sustainable, inclusive and thriving communities and it remains the holder and manager of a significant portfolio of Crown housing assets. More recently, however, the breadth of the Kāinga Ora development mandate has expanded and enhanced with a range of powers and functions under both the Kāinga Ora – Homes and Communities Act 2019 and the Urban Development Act 2020.

1.3 The detailed submissions lodged by Kāinga Ora on the Upper Hutt City Council's IPI are intended to:

(a) Support the Council to give effect to national policy direction, and in particular, the NPS-UD;

(b) Encourage the Council to utilise the important opportunity provided by the IPI to enable much-needed housing development utilising a place-based approach that respects the diverse needs, priorities, and values of local communities;

(c) Test the quality of reasoning and evidence relied on to reduce height, density or development capacity against the legal requirements for qualifying matters; and

(d) Optimise the ability of the IPI to support both Kāinga Ora and the wider development community to achieve government housing objectives within those communities experiencing growth pressure or historic underinvestment in housing.

1.4 Kāinga Ora also seeks to offer a national perspective to facilitate cross-boundary consistency in the implementation of the Act, which it hopes is of assistance to the Council.

1.5 These legal submissions will:

(a) Briefly summarise the statutory framework within which Kāinga Ora operates;

(b) Describe the step-change that the NPS-UD and HSEA require when establishing the planning framework;

(c) Address specific issues raised by the evidence which have a legal dimension, including:

(i) The Council's approach to the scope of its IPI and submission on the IPI, and why the Council's s 42A report is wrong to recommend rejecting Kāinga Ora's submission seeking a restricted discretionary activity status for ground-floor commercial activity in the High Density Residential Activity Area on the basis of lack of scope;

(ii) What the Petone State Housing Heritage Area should be called; and

(iii) The appropriate location of flood hazard mapping.

2. KĀINGA ORA AND ITS STATUTORY MANDATE

2.1 The corporate evidence of Mr Singh sets out the key statutory provisions from which Kāinga Ora derives its mandate. In short, Kāinga Ora was formed in 2019 as a statutory entity under the Kāinga Ora-Homes and Communities Act 2019, which brought together

Housing New Zealand Corporation, HLC (2017) Ltd and parts of the KiwiBuild Unit.

2.2 As the Government's delivery agency for housing and urban development, Kāinga Ora works across the entire housing development spectrum with a focus on contribution to sustainable, inclusive and thriving communities that enable New Zealanders from all backgrounds to have similar opportunities in life.[1] It has two distinct roles: the provision of housing to those who need it, including urban development, and the ongoing management and maintenance of the housing portfolio.

2.3 In relation to urban development, there are specific functions set out in the Kāinga Ora–Homes and Communities Act 2019. These include:

(a) to initiate, facilitate, or undertake any urban development, whether on its own account, in partnership, or on behalf of other persons, including:[2]

(b) development of housing, including public housing and community housing, affordable housing, homes for first-home buyers, and market housing:[3]

(c) development and renewal of urban developments, whether or not this includes housing development;[4]

(d) development of related commercial, industrial, community, or other amenities, infrastructure, facilities, services or works;[5]

(e) to provide a leadership or co-ordination role in relation to urban development, including by-[6]

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1 Kāinga Ora–Homes and Communities Act 2019, s 12.
2 Kāinga Ora–Homes and Communities Act 2019, s 13(1)(f).
3 Kāinga Ora–Homes and Communities Act 2019, s 13(1)((f)(i).
4 Kāinga Ora–Homes and Communities Act 2019, s 13(1)(f)(ii).
5 Kāinga Ora–Homes and Communities Act 2019, s 13(1)(f)(iii).
6 Kāinga Ora–Homes and Communities Act 2019, s 13(1)(g).

(i) supporting innovation, capability, and scale within the wider urban development and construction sectors;[7]

(ii) leading and promoting good urban design and efficient, integrated, mixed-use urban development:[8]

(f) to understand, support, and enable the aspirations of communities in relation to urban development;[9]

(g) to understand, support, and enable the aspirations of Māori in relation to urban development.[10]

2.4 Further, Kāinga Ora considers that the compact urban form promoted by the HSEA and to be implemented through the IPI is clearly aligned with its functions:

(a) A compact urban form enables residents to live closer to places of employment, education, healthcare, and services such as retail. That reduces the need for travel and supports the use of public transport and active transport modes.

(b) The intensification around centres promoted by Policy 3 of the NPS-UD further supports those outcomes while enabling the centres to increase in scale, economic activity and viability, diversity of economic, social and cultural activities, and vibrancy.

(c) A compact urban form enables the sharing of key infrastructure such as urban roading, three water networks and reduces the marginal cost of construction for such infrastructure.

(d) Intensification, particularly through multi-storey development, reduces the total extent of impermeable surfaces (having regard to roading as well as building coverage) and,

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7 Kāinga Ora – Homes and Communities Act 2019, s 13(1)(g)(i).
8 Kāinga Ora – Homes and Communities Act 2019, s 13(1)(g)(ii).
9 Kāinga Ora – Homes and Communities Act 2019, s 13(1)(h).
10 Kāinga Ora – Homes and Communities Act 2019, s 13(1)(i).

consequently, reduces the total stormwater runoff from urban development.

(e) Intensification enables an urban form that, overall, is more efficient, connected and supportive of residents while reducing or avoiding the adverse effects and inefficiencies that can arise from less compact forms of development.

2.5 In recent years, Kāinga Ora has had a particular focus on redeveloping its existing landholdings, using sites more efficiently and effectively so as to improve the quality and quantity of public and affordable housing available for those most in need of it.

2.6 The direction contained in the NPS-UD (coupled with the MDRS required by the HSEA) provides an opportunity to address that issue for the future. Kāinga Ora's submissions have therefore focused on ensuring the planning framework supports critical drivers of successful urban development including density, height, proximity to transport and other infrastructure services and social amenities, as well as those factors that can constrain development in areas that need it, either now or as growth forecasts may project. It has thought critically about attempts to pull back from intensification in areas with identified qualifying matters and tested the evidence and reasoning used to justify this.

2.7 If planning frameworks are sufficiently well crafted, benefits will flow to the wider development community. With the evolution of the Kāinga Ora mandate, via its 2019 establishing legislation and the UDA in 2020, the government is increasingly looking to Kāinga Ora to build partnerships and collaborate with others in order to deliver on housing and urban development objectives. This will include partnering with private developers, iwi, Māori landowners, and community housing providers to enable and catalyse efficient delivery of outcomes, using new powers to leverage private, public and third sector capital and capacity.

3. NPS-UD AND HSEA – CHANGE OF MINDSET REQUIRED

3.1 The NPS-UD was approved on 20 July 2020. Section 55 of the RMA governs local authority recognition of national policy statements but in this case implementation of the NPS-UD has been accelerated by the subsequent passage of the HSEA.

3.2 Together these documents require those making recommendations and decisions on proposed plans to change their mindset in a fundamental way.

3.3 The NPS-UD and HSEA have their origins in the Productivity Commission's report *Using land for housing*.[11] Among the Report's findings were that planning frameworks were overly restrictive on density, and that density controls were too blunt, having a negative impact on development capacity, affordability, and innovation. The Report also commented that planning rules and provisions lacked adequate underpinning analysis, resulting in unnecessary regulatory costs for housing development.

3.4 Policy 3 of the NPS-UD is directive. It requires district plans to enable building heights and density of urban form:

(a) As much as possible in city centre zones to maximise the benefits of intensification;

(b) In all cases at least six storeys and otherwise reflecting demand in metropolitan centre zones;

(c) At least six storeys within at least a walkable catchment of rapid transit stops, and the edge of city and metropolitan centre zones; and

(d) Commensurate with the level of commercial activity and community services within and adjacent to neighbourhood centre zones, local centre zones, and town centre zones.

3.5 Notably:

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[11] Productivity Commission *Using land for housing* (September 2015).

(a) Six storeys is a floor, not a ceiling. *At least* six storeys must be enabled in metropolitan centre zones, walkable catchments etc.

(b) In policy 3(c), six storey building heights are to be enabled *at least* within the referenced walkable catchments. In other words, even beyond the walkable catchments territorial authorities must be considering enabling at least six storeys. Despite this, it appears most territorial authorities have limited themselves to strict walkable catchments, thereby potentially failing to give effect to the NPS-UD.

3.6 Perhaps the most significant policy in terms of the approach decision-makers must take is policy 6(b). It provides:

> **Policy 6**: When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:
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> …
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> (b) that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:
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> (i) may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and
>
> (ii) are not, of themselves, an adverse effect.

3.7 The requirement to have particular regard to a matter "is an injunction to take the matter into account, recognising it as something important to the particular decision and therefore to be considered and carefully weighed in coming to a conclusion."[12] This policy accordingly requires decision-makers to recognise as important that the amenity values associated with a more intensified housing environment are appreciated by people, communities and future generations. This gives significant scope for decision-makers to prioritise the development of amenity values to be appreciated by future generations, and those currently struggling to find housing in the

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12 *Marlborough District Council v Southern Ocean Seafoods Ltd* [1995] NZRMA 220 at 228; approved in *New Zealand Transport Agency v Architectural Centre Inc* [2015] NZHC 1991 at [67]-[68].

highly constrained housing and rental markets, over the amenity values appreciated in existing low density residential neighbourhoods.

3.8 Section 77G(1) of the HSEA imposes on territorial authorities a duty to incorporate the MDRS in "*every relevant residential zone*", which is defined as meaning all residential zones (with some irrelevant exclusions). Section 77G(2) imposes a duty to give effect to the NPS-UD in "*every residential zone in an urban environment*".

3.9 The sole basis on which a territorial authority may reduce the application of the MDRS or the building heights and density of urban form required by policy 3 is by identifying a matter that qualifies, through evidence and cost-benefit analysis, to reduce the otherwise strict application of the MDRS and policy 3.

3.10 Policy 4 of the NPS-UD and section 77I provide that a district plan may be less enabling than the MDRS and policy 3 require *only to the extent necessary to accommodate* a qualifying matter.

3.11 The italicised words are significant and important. They mean that when evidence establishes that a less-enabling provision is appropriate, the starting point is the MDRS or policy 3 requirements, and the reduction from those standards or requirements must be to the least extent necessary to accommodate the matter.

3.12 The Productivity Commission Report findings about weak cost-benefit analysis have led to ss 77I-77L and cls 3.32-3.33 of the NPS-UD which seek to strengthen the level of rigour in evidence and analysis required to establish restrictions on development through qualifying matters.

Kāinga Ora's position

3.13 The mindset change required is reflected in the position that Kāinga Ora has taken through its submission, as updated in its evidence and the outcomes it is seeking.

3.14 Particularly important are the additional height and density sought around the City Centre Zone and Petone Commercial Area 2. As the

Council is aware, Kāinga Ora considered that the proposed centres hierarchy review might have assisted the Council in implementing the NPS-UD, though it accepts the reality that this will now have to occur through the full district plan review signalled. Nonetheless, in the context of the region, Kāinga Ora considers these two centres to be metropolitan centres, justifying the additional height and density Kāinga Ora has sought so as to provide for well-functioning urban environments.

4. APPROACH TO SCOPE OF SUBMISSIONS

4.1 The Council's s 42A report recommends rejecting an important Kāinga Ora submission on the basis that the provisions sought are outside the legitimate scope of an IPI. This is Kāinga Ora's request for a restricted discretionary activity rule enabling commercial activities on the ground floor of apartments within the HDRAA.[13]

4.2 Kāinga Ora has a fundamentally different approach to the question of scope than the Council, both in terms of what may validly be included in the IPI, but also on the approach to be taken to the scope of submissions.

Scope of an IPI

4.3 Section 77G imposes a duty on territorial authorities to incorporate the MDRS and give effect to policy 3 (or policy 5) in "every relevant residential zone". "Relevant residential zone" is defined in s 2 as meaning "all residential zones" with some listed exceptions not relevant to this argument. Section 77G also provides that the requirements of the MDRS or policy 3 may be made less enabling, but only if authorised through s 77I (which provides for the application of qualifying matters).

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[13] The Council has also rejected on the basis of "scope" Kāinga Ora's request for demolition controls in heritage areas (see s 42A report at paragraph (992)). The proposed demolition control supports the implementation of policy 4 of the NPS-UD by ensuring that areas that are less enabling of intensification in reliance on a qualifying matter (heritage) are not undermined by failing to control demolition of heritage items within the heritage precinct. Such a provision therefore fits fairly and squarely within s 80E(1)(b)(iii). However, as this will be addressed in the full plan review signalled Kāinga Ora no longer pursues this submission.

4.4 Section 77N is a companion provision to s 77G relating to urban non-residential zones (eg, commercial zones and centres). It requires territorial authorities to ensure that the provisions in the district plan for each urban non-residential zone within the authority's urban environment give effect to the changes required by policy 3 (or policy 5). As with s 77G, the only way that the change required by the section may be less enabling than policy 3 requires is if authorised through s 77O (which also relates to qualifying matters).

4.5 Sections 77I and 77O respectively provide a list of potential matters that may be relied on to qualify the requirements of the MDRS or policy 3. They line up with policy 4 of the NPS-UD. Sections 77J, 77K and 77L, and ss 77P, 77Q and 77R provide mirror processes for the establishment of qualifying matters for residential and non-residential zones respectively.

4.6 Against this background, s 80E sets out what must be included in the IPI, and what may be included. An IPI means a change to the district plan that must incorporate the MDRS and give effect to policies 3 and 4. Reading the definition in light of the duties imposed by ss 77I and 77N necessarily requires that the IPI incorporates the MDRS, and policy 3 if relevant, in every relevant residential zone and policy 3 in urban non-residential zones.

4.7 Section 80E(1)(b) provides that an IPI may include "related provisions, including objectives, policies, rules, standards, and zones, that support or are consequential on the MDRS or policies 3, 4, and 5 of the NPS-UD, as applicable."

4.8 Section 80E(2) provides a non-exhaustive definition of "related provisions" listing various matters it may include. In Kāinga Ora's submission, any proposed objective, policy, rule or standard that supports or is consequential on the MDRS or policy 3 is a legitimate matter for inclusion in the IPI.

Scope of submissions "on" an IPI

4.9 Supporting the Council's s 42A report is legal advice included as Appendix 3. The legal advice sets out the basis of the Council's approach to scope. That advice includes the following passage:

> 6 As clause 6 of Schedule 1 applies to an IPI process, submitters are limited to submitting on PC56, in the same way they are limited to submitting on a standard district plan change [Schedule 1, clause 95(2), RMA]. The established caselaw therefore needs to be considered when determining the available scope for submissions on an IPI.
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> 7 The legal principles relevant to determining whether a submission is 'on' a plan change, in accordance with Schedule 1, clause 6 are well-settled [These were most recently considered by the Environment Court in *Te Tumi Kaituna 14 Trust v Tauranga City Council* [2018] NZEnvC 21.] We consider that the caselaw that applies to that clause, when applied to a normal First Schedule process, equally applies when that clause applies to an IPI process.

4.10 The reasoning process is that because cl 95(2) incorporates by reference cl 6 of Schedule 1, it carries the same interpretation and is informed by the same caselaw.

4.11 In relation to other councils' IPIs Kāinga Ora has argued for a cautious approach to the existing caselaw in determining whether it assists to determine whether a submission is "on" an IPI in light of ss 77G, 77N and 80E.

4.12 The first reason for this is that the principles established in *Clearwater*[14] and *Motor Machinists*[15] are predicated on the assumption that plan changes are initiated by councils of their own volition to address the specific, identified needs of the district, across a carefully considered spatial extent, and they are appropriate principles for that situation. But here the IPI is the result of obligations, expressly a *duty*, imposed on territorial authorities by legislation and national policy direction.

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14 *Clearwater Resort Limited v Christchurch City Council* HC Christchurch AP 34-02, 14 March 2003.

15 *Palmerston North City Council v Motor Machinists Limited* [2013] NZHC 1290.

4.13 The second is that cl 99 expressly enables an ISPP hearings panel to make recommendations that extend beyond the scope of submissions made on the IPI, and clause 101(5) expressly empowers territorial authorities to accept such recommendations (though acceptance is discretionary).

4.14 The third reason is that the situation is more like the situation addressed by the High Court in *Albany North Landowners*,[16] a case not referred to in the Council's legal opinion. That case related to the Proposed Auckland Unitary Plan ("**PAUP**"), which had an underlying legislative framework similar to that in relation to the IPIs (including an equivalent of cl 99).

4.15 The High Court determined that the PAUP planning process was "far removed from the relatively discrete variations or plan changes under examination" in *Clearwater* and *Motor Machinists*, because: [17]

> … every aspect of the status quo in planning terms was addressed by the PAUP. [Further, because] there was no express limit to the areal extent of the PAUP (in terms of the Auckland conurbation), the issues as framed by the s32 report, particularly relating to urban growth, also signalled the potential to great change to the urban landscape. The scope for a coherent submission being "on" the PAUP in the sense used [in Motor Machinists] was therefore very wide.

4.16 In other words, the s 32 report, which carries relatively high significance under the *Clearwater* and *Motor Machinists* test, was of substantially reduced significance. The same can be said of the IPIs because s 77J(4)(b) substantially reduces the extent to which a s 32 analysis needs to be carried out where the MDRS are being implemented (in the absence of a qualifying matter).

4.17 The High Court also rejected the notion that that a submission on the PAUP was likely to be out of scope if the relief raised in the submission was not specifically addressed in the original s 32 report. The s 32 does not purport to "fix the final frame of the instrument as a

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16 *Albany North Landowners v Auckland Council* [2017] NZHC 138.
17 *Albany North Landowners v Auckland Council* at [129]

whole or an individual provision" and is itself subject to challenge by way of submission:[18]

> While it may be that some proposed changes are so far removed from the notified plan that they are out of scope (and so require "out of scope" processes), it cannot be that every change to the PAUP is out of scope because it is not specifically subject to the original s32 evaluation.

4.18 Others have gone further and suggest that the *Clearwater* and *Motor Machinists* line of authorities is simply inapt for these reasons:

(a) The drafting technique used in clause 95(2) is “incorporation by reference”. The drafter takes words used in one part of an enactment, or in some cases another enactment, and incorporates them into another. In using such a technique it has long been established that the incorporation of provisions does not affect the separate identities of each part.[19] This means that the same words may have different meanings in their different contexts, or adjustments may be needed to the meaning of incorporated clauses within their new context.[20]

(b) This is perhaps just another way of saying that because “the meaning of legislation must be ascertained from its text and in the light of its purpose and its context” (s 10 of the Legislation Act 2019), the words “on it” as they appear in clause 6 may be applied differently in the context of an ISPP than in a usual Part 1, Schedule 1 process. This is because the context in which they appear must take into account ss 77G, 77N and 80E.

4.19 Kāinga Ora agrees with this.

4.20 Further, and as noted above, cl 99 provides for the Panel’s powers. It must make recommendations to the relevant council related to a matter identified by the Panel or any other person during the hearing, but the recommendations are not limited to being within the scope of

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18 *Albany North Landowners v Auckland Council* at [130]-[132].
19 *Down v R* [2012] NZSC 21; [2012] NZLR 585 at [22]-[24].
20 Francis Bennion *Bennion on Statutory Interpretation* (5th ed, LexisNexis, London, 2008) at 758.

submissions. Strictly limiting the scope of submissions would be at odds with this power to go beyond matters raised by submitters.

RDA for commercial activities in the HDRAA

4.21 Kāinga Ora sought a new RDA rule within the HDRAA, to provide an enabling consent pathway for commercial activities located at the ground floor of apartment buildings.

4.22 The Council's s 42A report recommends at paragraph (505):

> Kāinga Ora (206) seeks another new rule in Chapter 4G to enable commercial activities as a restricted discretionary activity, with standards limiting the activity to being on the ground floor tenancy of an apartment building, the total gross floor area being limited to 200m2, not allowing repair, alteration, restoration or maintenance of motor vehicles as part of the activity, and restricting hours of operation to between: 7.00am - 9.00pm Monday to Friday and 8.00am - 7.00pm Saturday, Sunday and public holidays. The submitter suggests matters of discretion be restricted to the effects on the amenity of the surrounding residential area, effects on pedestrian safety and the safe and efficient movement of vehicles, the positive contribution of the activity to the urban environment and achievement of attractive and safe streets. It seeks a Discretionary activity status where compliance is not achieved with the restricted discretionary activity standards for the rule. While this is potentially a valid use of the Plan Change as an IPI, this submission point is considered out of scope as this matter is not considered in this Plan Change. Instead, it is recommended that this matter be addressed as part of the full District Plan review.

4.23 Acceptance that this is a legitimate use of the plan change is qualified, but undoubtedly correct. The proposed rule supports the intensification required by the IPI (and as required by policy 3 of the NPS-UD) by:[21]

(a) avoiding the privacy and amenity issues associated with residential at ground floor;

(b) improving the functioning of the intensified urban environment outcome by providing meeting locations for residents and others in the neighbourhood, assisting with live work opportunities and the supply of daily needs, and improving walkability.

4.24 It is thus within the scope of the IPI under s 80(1)(b)(iii).

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[21] See Evidence of Karen Williams at [10.1]-[10.3].

4.25 Moreover, it cannot be said that the submission is not "on" the plan change. That is plainly the case on Kāinga Ora's approach. The submission directly addresses the extent to which the IPI complies with the duty imposed by ss 77G, and seeks to plug a clear gap in the Council's approach.

4.26 But even on the *Clearwater* and *Motor Machinists* approach, the IPI proposes a new HDRAA, a zone imposing high density residential outcomes in furtherance of the well-functioning urban environments desired by the NPS-UD. A submission seeking to address the range of activities that may be undertaken in that zone is necessarily "on" the plan change. It addresses the extent of the Council's proposed change to the status quo.

4.27 Finally, in light of the above, reliance on cl 99 is completely unnecessary, but is an alternative way that the Panel can determine to adopt Kāinga Ora's submission on this point.

5. PETONE STATE HOUSING HERITAGE AREA

5.1 Among the changes sought by Kāinga Ora to the provision for heritage areas through the IPI, there is a difference of opinion between the Council and Kāinga Ora about the appropriate name of the heritage area.

5.2 The Council's s 42A report notes (at paragraph (1028)):

> Kāinga Ora (206.116) sought to rename the area to "Petone State Housing" rather than "State Flats". I do not think this change would make a material difference to the plan and its implementation.

5.3 This does not actually provide a reason not to adopt KO's submission, and it is noted that the Council's heritage expert, Ms Stevens does not object to Kāinga Ora's preferred name. If it is agreed that what the Area is called makes little material difference, then at least the title should be accurate. Put another way: all things being equal, is it not better to give it a more accurate name?

5.4 However, while the situation is hardly likely to arise, what it is called could in principle make a material difference. The titles of sections,

rules, areas etc may be used in the interpretation of secondary legislation (which the district plan is). Accordingly, the point made by Ms Williams, that what is being protected are the buildings, not the "flats" within them, is an important one.[22]

6. FLOOD HAZARDS

6.1 Kāinga Ora supports the general risk-based approach the IPI takes to managing flood hazards. To the extent that the underlying work has been completed, Kāinga Ora agrees that it is robust and has no reason to doubt its accuracy. The only real point of contention is the appropriate location of the mapping component of the plan framework. Kāinga Ora seeks 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.[23]

6.2 The contest here is really a matter of planning preference. As characterised in the evidence of Gurv Singh, the competing approaches are a traditional approach of mapping flood hazards within the plan as opposed to preferring the efficiency and adaptability that leaving the maps outside of the plan allows.

6.3 Kāinga Ora does not consider that it can properly be said that the traditional approach is "best practice".[24] It is one approach of two or more available approaches with the trend moving away from this approach. However, even if it were best practice to include hazard maps within the plan, it does not follow that this should be the case when the underlying mapping work is still to be completed in respect of some areas and is necessarily fluid. As Ms Williams notes, wider flood protection works may considerably alter the existing flood hazard profile,[25] and there are catchments within Hutt City where modelling is yet to be completed by Wellington Water including: Eastern Bays, the western hills from Tirohanga north, and Wainuiomata (including South Wainuiomata and Black Creek).[26]

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22 Evidence of Karen Williams at [12.3].
23 Evidence of Karen Williams at [11.1] and Gurv Singh at [10.1].
24 Evidence of Gurv Singh at [10.5].
25 Evidence of Karen Williams at [11.5].
26 Evidence of Karen Williams at [11.6]; Evidence of Alistair Osborne at [19]-[20].

6.4 It is sometimes said that flood hazard mapping is more transparent if it is in the plan. By this it is meant that people have an opportunity to see the evidence base and test the underlying modelling before having planning rules imposed. But to most developers it makes no difference whether to challenge that evidence base during a plan process or when seeking a resource consent for development.

6.5 For these reasons, Kāinga Ora requests that the Panel accept its position on the appropriate role of flood hazard mapping.

7. EVIDENCE

7.1 Evidence by the following witnesses has been filed in support of Kāinga Ora's position:

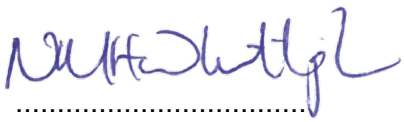
(a) Gurv Singh – Corporate evidence and Kāinga Ora representative;

(b) Karen Williams – planning;

(c) Nick Rae – urban design;

(d) Dave Pearson – heritage.

Date: 21 April 2023



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Nick Whittington