BEFORE INDEPENDENT HEARING COMMISSIONERS
AT CHRISTCHURCH

I MUA NGĀ KAIKŌMIHANA WHAKAWĀ MOTUHAKE
KI ŌTAUTAHI

IN THE MATTER	**of the Resource Management Act 1991**
AND	
IN THE MATTER	**of the hearing of submissions and further submissions on Plan Change 14 to the Operative Christchurch District Plan**

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

CORPORATE – STATEMENT 2 – RESIDENTIAL MATTERS

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

1. INTRODUCTION

1.1. My name is Brendon Scott Liggett and I hold the position of Development Planning Manager within the Urban Planning and Design Group at Kāinga Ora–Homes and Communities. I confirm that I am authorised to give evidence on behalf of Kāinga Ora in respect of hearings on the Plan Change

1.2. My qualifications and experience are outlined in paragraphs 2.2. to 2.4. of my first statement of evidence dated 22 September 2023.

1.3. This second statement of evidence on behalf of Kāinga Ora considers issues raised on the residential chapter and related qualifying matters (aside from QM-responses not otherwise listed here) in more depth. These include:

(a) Residential provisions;
(b) Future Urban Zone;
(c) Residential Heritage Areas Qualifying Matter;
(d) Residential Heritage Areas Interface Qualifying Matter;
(e) Residential Character Areas Qualifying Matter;
(f) Residential Industrial Interface Qualifying Matter;
(g) Low Public Transport Accessibility Qualifying Matter;
(h) Sunlight Access Qualifying Matter; and
(i) Riccarton Bush Interface Qualifying Matter.

1.4. This statement relies on, where applicable, the evidence and summary statements of the following expert witnesses for Kāinga Ora:

(a) Residential chapter planning evidence of Mr Jonathan Clease;
(b) Qualifying matters planning evidence of Mr Tim Joll;
(c) Qualifying matters landscape architecture evidence of Ms Sophie Strachan; and
(d) Qualifying matter heritage evidence of Mr John Brown.

1.5. I will in turn address each of these below, addressing the matters that Kāinga Ora has previously raised through its submission, and evidence, and then reconciling where this position is now following s42a reporting, expert conferencing and rebuttal evidence.

2. RESIDENTIAL PROVISIONS

2.1. Kāinga Ora has sought the application of the Medium and High-Density residential provisions in a manner that is in accordance with the NPS-UD and the National Planning Standards. The rationale behind seeking such relief is to enable a simplified, efficient and effective rule framework. Such a framework will reduce complexity and unnecessary or inefficient regulation that is a barrier to development. For Kāinga Ora, this is particularly pertinent due to the use of standard plans for housing. When District Plan provisions significantly vary from accepted standards across New Zealand, the local variance can result in burdensome amendments required to standard design typologies and can result in cost and time delays and thus materially impact the ability to deliver homes to those most in need.

2.2. As discussed in the summary statement of Mr Clease, there is now considerable agreement between the relief Kāinga Ora sought and the refined Council position regarding the residential policy framework and rule package. We support Mr Clease's suggestion that there be further conferencing on the matters outstanding.

3. FUTURE URBAN ZONE

3.1. As per the evidence of Mr Clease and addressed further in his summary statement, the application of the Future Urban Zone **(FUZ)** to already zoned, but unbuilt residential areas is flawed.

3.2. Whilst I defer to legal counsel to provide direction on this matter, it appears reasonable that soon to be built and feasible land is zoned MDRS, and areas unlikely to be built for a period of time remain FUZ.

3.3. Kāinga Ora acknowledges that the Council has made changes post notification to the extent of the FUZ and supports some of these changes.

Qualifying matters

4. RESIDENTIAL HERITAGE AREAS AND RESIDENTIAL HERITAGE AREAS INTERFACE QUALIFYING MATTERS

4.1. Kāinga Ora support the protection of areas of historic heritage as required by Section 6(f) of the Resource Management Act.

4.2. As addressed by Mr John Brown, the extent of some Residential Heritage Areas (**RHAs**) are questioned. This is because, Kāinga Ora holds Certificates of Compliance (**CoC**) which provides for the demolition of buildings on approximately 20 sites within RHA and Residential Heritage Area Interface **(RHAI)** QMs (RMA/2022/3444). Some of these buildings are identified as 'Primary' or 'Contributory' dwellings in the Council's analysis. Kāinga Ora also supports the evidence of Mr Joll, who considers given that these buildings can be demolished without the need for any resource consent, these should be classified as 'Neutral'. Importantly, this may justify further assessment and a reconsideration of the boundaries of the RHA, particularly in Piko/Shands which has the largest number of Kāinga Ora buildings that can be demolished.

4.3. Prior to the notification of Plan Change 13, Kāinga Ora adopted a cautious approach in relation to these dwellings and applied for CoC to enable the demolition of these homes. Kāinga Ora is currently confirming the long-term requirements to maintain or replace these dwellings and is likely to make investment decisions in the next 12 months. Providing that development is feasible, it is likely that Kāinga Ora will demolish and redevelop at least 50% of these sites within the next 10 years. Imposing the controls as proposed would significantly impact the ability of Kāinga Ora to provide safe, warm, and dry homes for our customers. Many of the homes in this area have reached the end of their life, and almost all similar aged homes

Kāinga Ora own in the same area outside of the RHA, and the residential character area have been redeveloped.

4.4. As addressed in the summary statement of Mr Tim Joll, there remain a number of implementation issues associated with the introduction of the RHA and RHAI QM. The RHA rules will likely place a considerable burden on the future maintenance of the Kāinga Ora properties located within areas covered by these qualifying matters and will also limit (or even preclude) the future redevelopment of these areas. Kainga Ora echoes Mr Joll's concerns.

5. RESIDENTIAL CHARACTER AREAS QUALIFYING MATTER

5.1. Kāinga Ora is not opposed to the application of existing Residential Character Areas as a QM, recognising this is provided for under s77I(j), subject to appropriate assessment against the tests of the Enabling Act. Of particular relevance is the requirement for a local authority to justify why the characteristic makes the level of development inappropriate in light of the national significance of urban development and the objectives of the NPS-UD under s77L(b).

5.2. The Kāinga Ora submission considers the extension of the Residential Character areas has not been appropriately assessed against the tests of s77J and s77L of the Enabling Act.

5.3. Kāinga Ora acknowledges the further investigation carried out by the Council to determine whether Residential Character Areas meet the criteria for a qualifying matter under the Act. As identified in the evidence of Mr Joll, this work also does not appear to have taken into account unimplemented resource consents or CoC.

5.4. As discussed in relation to RHAs, Kāinga Ora holds a CoC, which provides for the demolition of buildings on approximately 20 sites within Character Areas, and as set out in the above section addressing RHAs, a similar justification for further assessment and consequential reconsideration of character boundaries applies.

5.5. The proposed new built form standards for Character Areas (existing with amendments and new) are more restrictive than the current Operative District Plan **(ODP)** provisions in terms of density (600m2 in Residential Suburban Zone, 400m2 in Residential Suburban Density Transition Zone), height (8m permitted), internal boundary setbacks (1m) and road boundary setbacks (4.5m). This is considered to be a disproportionate and unnecessary response to intensified development, and Kāinga Ora continues to question the need for greater restriction on built form standards proposed by Council in Character Areas when compared to the ODP. Kainga Ora defers to counsel to determine the legality of these greater restrictions.

5.6. As already identified, Kāinga Ora owns a number of properties within the modified and new character areas. The new more restrictive controls have not been fully evaluated across the portfolio but are likely to significantly affect building maintenance and redevelopment options, ultimately affecting the ability of the organisation to provide safe, warm, dry homes for those in need.

5.7. In the view of Kāinga Ora, it is not appropriate to use the IPI process to restrict the implementation of the NPS-UD or MDRS in this way. If Council wish to impose additional protections or restrictions, then the usual Schedule 1 process should be used.

6. RESIDENTIAL INDUSTRIAL INTERFACE QUALIFYING MATTER

6.1. Kāinga Ora continues to oppose the Residential Industrial Interfaces QM, except in instances where residentially zoned land is at an interface with an existing heavy industrial activity, as discussed below.

6.2. Fundamentally, Kāinga Ora considers that mitigation of effects should be the primary responsibility of those businesses within the industrial zone, as opposed to a burden on future development of residential land. The ODP already provides noise controls to achieve this. Kāinga Ora is also opposed to the imposition of ‘blanket’ rules requiring prescribed setbacks without the appropriate

site by site assessment, again because this places the burden on future development of residential land.

6.3. Kāinga Ora supports the evidence of Mr Joll who concludes that he "*disagrees that the industrial interface QM can be justified in terms of 77I(i) of the RMA as in the main they are already comprised of benign activities that are compatible with a residential interface.*"

6.4. Kāinga Ora reiterates that the use of a 'blanket control' is not appropriate, and, where they are able to be justified, interface areas should be spatially modelled and based on the actual effects of existing activities. This will avoid placing undue burden on future development of residential land and ensure that QMs are not at odds with the intent of the NPS-UD and MDRS.

7. LOW PUBLIC TRANSPORT ACCESSIBILITY QUALIFYING MATTER

7.1. As per the relief sought in the Kāinga Ora submission, the Low Public Transport Accessibility **(LPTA)** QM is inconsistent with the Enabling Act and should be deleted.

7.2. Kāinga Ora does not agree with the Council's justification that those areas outside of 800m walk from five high frequency (core) bus routes, or 800m walk from additional bus routes with significant potential to connect employment centres, together would result in the level or degree of adverse effects or result in a less-compact land-use scenario.

7.3. Kāinga Ora considers that the LPTA misinterprets the intention behind NPS-UD Objective 3(b) '…district plans enable more people to live in… areas of an urban environment in which one of more of the following apply: … (b) the area is well-serviced by existing or planned public transport. …' and Policy 1 of the NPS-UD seeks that 'Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum: … (c) have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; …'. The Council appears to argue

that, because an area is not within an 800m walkable catchment of a core bus route, it is not suited to intensification or housing choice. However, access to public transport is only one element of what the NPS-UD considers to be a key contributor to a well-functioning urban environment.

7.4. Kāinga Ora considers that the Council's proposed LPTA QM will only further restrict the development or identification of new public transport route needs. Mr Morahan, in his evidence and submission for the Council, fails to consider that Council can be and has been a forward-looking organisation, and could, as it has with the major cycle route programme, develop new core bus routes. Generally, public transport is proposed, considered and amended in response to its need. Restricting development because there are no existing core routes, within existing urban areas, would limit the opportunity for future critical mass to support additional bus routes.

7.5. There are several areas of the city that contain significant concentrations of Kāinga Ora housing that are now overlayed with the proposed Suburban Density Precinct, due to the LPTA QM. Kāinga Ora accepts that these neighbourhoods and communities are currently poorly served by public transport, and this is why we continue to advocate for improved access to services for our customers who continue to face considerable barriers to living well. In our view, the LPTA QM will perpetuate poor access to public transport and continue to disadvantage those marginalised communities. It is difficult to reconcile the evidence presented by Council as '*density done well*', or the Council's response that they are contributing to a "*well-functioning urban environments that enable **all people** and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future*". With the application of the proposed LPTA QM in place, Kāinga Ora questions how there will be any improvement in services for some areas of the city.

8. SUNLIGHT ACCESS QUALIFYING MATTER

8.1. The sunlight access QM was proposed as a citywide limitation on the extent to which medium density and the three-by-three dwelling rules could apply. Premised on the basis that sunlight access is important for living well and that the new MDRS would impede on this, the development of these standards seem a reasonable response. However, this is predicated on the basis that decision makers had not already accounted for this in the development of the MDRS. As discussed in the papers to Cabinet, and in the PWC report on the implementation of the MDRS, decision makers were aware that sunlight access loss would be a cost that is associated with intensification.

8.2. Options considered in the development of the MDRS included a Mixed Housing Urban zone rule package for MDRS (akin to that of the Auckland Unitary Plan), however this was discounted. This situation has appeared to confuse the Council experts in their calling of evidence in relation to the sun-light access matter, who are seemingly of the understanding that the rule package was somehow designed for, and therefore predicated on, an Auckland level of sunshine. The final ratified MDRS was considered to strike the balance between enabling amenity, while providing for reasonable amenity and wellness outcomes.

8.3. Access to sunlight hours and the angle of the sunlight in Christchurch has been well canvased by Council experts. This of itself does not merit any special application of planning rules or variants from national standards and was not provided for in the legislation. The consistency of the standards from a national perspective is what provides the greatest of gains there is to be achieved from the implementation of the MDRS. As a developer of standard building typologies for the purpose of speed of delivery, quality improvement, as well as cost efficiencies, amendments to these standard plans can be detrimental to development feasibility. In a number of locations, Kāinga Ora has had to modify its standard plans to respond to bespoke or highly restrictive planning environments. The consequence is often an impact on the financial

viability of redevelopment. The application of a nationally consistent set of standards for medium density developments would help this situation.

8.4. The Council's proposed sunlight access QM and the reduced development capability due to the changed HIRB on other boundaries, and an amended height framework, is based on a traditional approach to the management of residential amenity and that of solar access. This approach does not accord with Policy 6(b) of the NPS-UD.

8.5. Kāinga Ora notes that Mr Kleynbos for the Council has detailed how no expert evidence has been presented by submitters in relation to the sunlight access QM. Conversely, as a submitter, it has been difficult to understand what evidence the Council has used to support the QM from the basis of health impacts, or in relation to quality urban form, or strongly linked to addressing matters of urban change overtime and accommodating population growth.

8.6. In its assessment of the sunlight access QM, Council has failed to consider whether the restrictions as they have proposed via the QM are the most effective way to manage solar access in medium density and high-density scenarios. For example, it has not considered a more targeted approach that identifies sites/areas within the city where development would be more appropriately limited (such as certain steep slopes of Sumner or Cashmere with particular orientation causing excessive shade on properties downslope). Or where additional sunlight access is provided for by adjacent uses such as parks or protected heritage buildings, rather than applying the sunlight access QM on a city-wide blanket basis. This fails to meet the tests of the Enabling Act, and also places the burden on future development of residential land.

9. RICCARTON BUSH INTERFACE QUALIFYING MATTER

9.1. In considering the appropriateness and the application of the rules, Kāinga Ora defers to Ms Sophie Strachan. Kāinga Ora note Ms Strachan's concern that there has not been appropriate explicit testing of all the amended proposals provided by Council and the

application and effect of these proposed rules as they would apply across the full footprint in which the Riccarton Bush Interface QM covers.

9.2. The establishment of a less permissive internal boundary setback rule than the ODP should be considered only if the IPI process is the appropriate mechanism for doing so in light of the *Waikanae* decision.

10. CONCLUSION

10.1. Kāinga Ora continues to be generally supportive of PC14 as notified in regard to enabling density and the provision of the MDRS. Significant progress has been made with the current PC14 provisions following the s42a reporting, JWS, and rebuttal evidence.

10.2. Kāinga Ora remains concerned about the implementation of the proposed QMs and consider they constrain the ability to create and deliver a well-functioning urban environment, as required by the Enabling Act and the NPS-UD.

10.3. Kāinga Ora considers that if its submission, the consequential evidence by its experts, and this further corporate evidence is taken into account and adopted into PC14, the plan change will be further enhanced and more efficient and effective at achieving the objectives of the operative plan. The relief sought provides additional appropriately located development capacity for delivery of additional public housing, affordable housing, homes for first-home buyers, and improve market capacity to provide a greater number and range of housing types and sizes of dwellings for Christchurch residents.

Brendon Scott Liggett

29 November 2023