

**UNDER**

the the Resource Mangement Act 1991 ("RMA")

**IN THE MATTER**

of Proposed Waikato District Plan: Hearing 8a –  
Hazardous Substances

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**EVIDENCE OF MATTHEW ARMIN LINDENBERG ON BEHALF OF  
KĀINGA ORA (FORMERLY HOUSING NEW ZEALAND CORPORATION)  
(749, FS1269)**

**PLANNING**

**16 December 2019**

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## 1. Summary Statement

- 1.1 My full name is Matthew Armin Lindenberg. I am a Senior Associate at Beca Limited. I am providing planning evidence on behalf of Kāinga Ora Homes and Communities (“**Kāinga Ora**”) (formally Housing New Zealand Corporation) in relation to its submissions on the Proposed Waikato District Plan (“**the Plan**” or “**PDP**”). Specifically, this evidence relates to Chapter 10: Hazardous Substances and Contaminated Land.
- 1.2 In summary, the key points addressed in my evidence are:
- a) I support Council’s recommendation to delete the definition of “*hazard*” from the PDP. The term can apply to a range of matters that are not included in the proposed definition and there are definitions already provided for “*hazardous facility*”, “*hazardous substance*” and “*hazardous waste*”. On this basis I do not consider it necessary to have a specific definition of “hazard” and, therefore, I consider it is appropriate to delete this term from the PDP.
  - b) I oppose Council’s recommendation to retain the definition of “*use*” in the PDP as notified. In my opinion, a minor amendment should be included to improve clarity of the term to Plan users.

## 2. Introduction

- 2.1 My name is Matthew Armin Lindenberg. I am a Senior Associate - Planning at Beca Ltd. I hold the degree of Masters of Science (Geography) from the University of Auckland and am an Associate of the New Zealand Planning Institute.
- 2.2 I am providing planning evidence on behalf of Kāinga Ora in relation to submissions made on high-level matters in the Proposed District Plan (those matters that have an over-arching effect on the structure and content of the Proposed District Plan) insofar as they relate to this hearing.
- 2.3 I confirm that I have read the submissions and further submissions by Kāinga Ora in relation to the Proposed District Plan. I am familiar with Kāinga Ora's corporate intent in respect of the provision of housing within Waikato. I am also familiar with the national, regional and district planning documents relevant to the Proposed District Plan.
- 2.4 I have 15 years' planning and resource management experience, providing technical direction on a number of key projects, particularly focussing on land development projects and policy planning. I have been involved in a number of plan review and plan change processes, including the recent Independent Hearings Panel ("IHP") hearings on the proposed Auckland Unitary Plan ("PAUP"). In particular, I have been a member of planning teams for policy planning projects including:
- (a) The Kaipara District Plan review and development of objectives and policies (for the 'Land Use and Development Strategy' and 'Residential' chapters) for the notification of that Plan;
  - (b) The Plan Variation for the site known as 'The Landing' at Hobsonville Point (undertaking through the Housing Accords and Special Housing Areas legislative process) on behalf of Hobsonville Land Company;
  - (c) The Kerikeri-Waipapa Structure Plan (2007) on behalf of the Far North District Council; and
  - (d) The preparation of the Local Development Framework and Core Strategy (the 'Spatial Plan') during my time working at the London Borough of Bexley in the United Kingdom, including leading the

‘Affordable Housing’ and ‘Sustainability/Climate Change’ workstreams as part of the plan development process.

- 2.5 I also prepared and presented evidence on numerous PAUP hearing topics on behalf of Kāinga Ora in front of the IHP. I subsequently prepared and presented evidence in the Environment Court on behalf of Kāinga Ora in relation to appeals on the PAUP related to the carparking and transport provisions as well as the Residential zone provisions.

### **3. Code of Conduct**

- 3.1 I confirm that I have read the Expert Witness Code of Conduct set out in the Environment Court’s Practice Note 2014. I have complied with the Code of Conduct in preparing this evidence and agree to comply with it while giving evidence. Except where I state that I am relying on the evidence of another person, this written evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this evidence.

### **4. Scope of Evidence**

- 4.1 This statement of evidence addresses submission points relating to Chapter 10: Hazardous Substances and Contaminated of the PDP.

### **5. Chapter 10 – Hazardous Substances and Contaminated Land**

#### Submission Point 749.49 – Definition – ‘Hazard’

- 5.1 Kāinga Ora’s primary submission<sup>1</sup> sought to delete the definition of “*hazard*” on the basis the definition could apply to a range of matters that are not included in the proposed definition, such as natural hazards or hazards related to health & safety, and that because definitions such as “*hazardous substances*”, “*hazardous facility*” and “*hazardous waste*” are already defined in the PDP it was not necessary to have a specific definition for “*hazard*”.
- 5.2 In the s42A report, Council has recommended deleting the definition of “*hazard*” stating that the definition could be deleted from the PDP without

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<sup>1</sup> No. 749.49

significant consequences<sup>2</sup>. I support the recommendation of Council to delete the definition of “*hazard*”. However, I note that the definition of “*hazard*” has not been deleted from Appendix 2 of the s42A Report (Hazardous Substances and Contaminated Land Chapter Amendments) and seek that this is amended to reflect Council’s recommendation.

Submission Point 749.63 – Definition ‘Use’

- 5.3 Kāinga Ora’s primary submission<sup>3</sup> sought to amend the term “*use*” as the term is too broad and should not be included as a definition within the PDP. Kāinga Ora further noted that the definition provided with the term “*use*” should include the words ‘*hazardous*’ as it relates to more ‘*hazardous use*’ than in a general application of ‘*use*’.
- 5.4 In the s42A report, Council has recommended the retention of the definition of “*use*”, as notified, stating that the definition is clear that it relates to the “*use*” of hazardous substances given the beginning of the definition reads “*in the context of hazardous substances*”<sup>4</sup>. Further, the Council recognises that when describing the context of the term in practice, it can be said that it is not the “*use*” itself which is hazardous, but more about the hazardous substances used.
- 5.5 I do not support the retention of the term “*use*”, as notified, for the reasons outlined in Kāinga Ora’s primary submission (and set out above at paragraph 5.3). In my opinion, the addition of the term “*hazardous*” is important because it increases the clarity of the definition to Plan users when used within the Plan itself, without changing the intent of the definition.
- 5.6 Therefore, I consider the definition of “*use*” should be amended as sought in Kāinga Ora’s primary submission (underline marks additions), as follows:

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<sup>2</sup> s42A Report – Hazardous Substances and Contaminated Land (para. 318, pg. 74)

<sup>3</sup> No. 749.63

<sup>4</sup> s42A Report – Hazardous Substances and Contaminated Land (para. 342, pg. 75)

**Hazardous Use**

*Means with respect to a hazardous substance, the manufacturing, processing or handling of a hazardous substance for a particular activity without necessarily changing the physical state or chemical structure of the hazardous substance involved. This includes mixing, blending and packaging operations, or the use of a hazardous substance as a cooling or heating medium. It does not include the filling or drawing of a hazardous substance from bulk storage tanks unless the processing is permanently connected to the bulk storage, and does not include loading out and dispensing of petroleum products.*

**6. Conclusion**

- 6.1 In conclusion, I am of the opinion that with the amendments sought by Kāinga Ora, and as outlined in this evidence, in Chapter 10: Hazardous Substances and Contaminated Land are appropriate and will assist in improving the consistency, usability and interpretation of provisions within the PDP, including how provisions are interpreted and implemented by both plan users and Council alike.

**Matthew Armin Lindenberg**

16 December 2019