

Before the Independent Hearing Commissioners at Porirua

under: the Resource Management Act 1991

in the matter of: submissions and further submissions in relation to
Variation 1 to the proposed Porirua District Plan

and: **Radio New Zealand Limited**
Submitter 73

Joint Memorandum of Counsel for Radio New Zealand and Kāinga
Ora – Homes and Communities

Dated: 17 March 2023

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JOINT MEMORANDUM OF COUNSEL FOR RADIO NEW ZEALAND AND KĀINGA ORA – HOMES AND COMMUNITIES

- 1 This memorandum is lodged on behalf of Radio New Zealand Limited (RNZ) and Kāinga Ora.
- 2 As the Panel will be aware, RNZ has been engaging with Kāinga Ora and Mr Rory Smeaton on appropriate controls on development around RNZ's Facilities at Titahi Bay.
- 3 Mr Smeaton has prepared proposed draft provisions that were provided to RNZ and Kāinga Ora Monday 13 March 2023 and presented to the Panel on 15 March 2023.
- 4 Ms Karen Williams, the planning expert for Kāinga Ora, has prepared further draft amendments to Mr Smeaton's provisions (attached as **Appendix A**). The effect of Ms Williams' amendments would be, for the Proposed Radio Transmission Height Control Area B between 528m and 1057m from RNZ's Facilities, to:
 - 4.1 Remove the proposed 11m height limit below which buildings and structures are a permitted activity; and
 - 4.2 Replace this with a 'stepped' height limit that increases in stages from 11m in height between 528-660m, to 18.75m in height between 900-1057m.

Kāinga Ora

- 5 Kāinga Ora considers the proposed stepped increase in height limit aligns with the safety standards set out in the joint witness statement (of Mr White and Mr Gledhill), and ensures that in Height Control Area B potential consent applicants do not have to obtain EMF assessments unnecessarily when building higher than the 11m prescribed by the MDRS but under the exposure limits.
- 6 In light of recent engagement with RNZ, Kāinga Ora notes that it is not pursuing the point raised in legal submissions that provisions should focus on controlling the use of cranes, cherry pickers and the like.

RNZ

- 7 RNZ considers that the proposed draft provisions prepared by Mr Smeaton, either with or without the changed height limits proposed by Ms Williams, will enable safety issues associated with further development near RNZ's Facilities to be managed.
- 8 RNZ is happy for precise height limits between 528m and 1057m of RNZ's Facilities to be settled by other parties and the Panel, provided that final height limits do not exceed the 'stepped' height limit proposed by Ms Williams as shown in **Appendix A**. Any height


limits greater than the proposed heights at each 'step' would come close to safety standard thresholds and would not be supported.

- 9 There are now no outstanding issues between RNZ and other parties, and RNZ does not have any matters it wishes to present to the Panel at the scheduled time of 9:05am on Monday 20 March 2023. Accordingly, RNZ proposes to not make any in-person (or remote) oral submission to the Panel.
- 10 If the Panel has questions for RNZ, then RNZ is happy to attend as scheduled and asks that the Hearing Administrator contact Counsel for RNZ to confirm attendance.

17 March 2023



Hadleigh Pedler and Ben Williams (Radio New Zealand)



Nick Whittington (Kāinga Ora)

APPENDIX A –

Karen Williams amendments shown in Green.

INF – Infrastructure

INF-P26 Buildings and structures within the Radio Transmission Height Control Area

Consider the following matters when assessing any buildings and structures proposed within the Radio Transmission Height Control Area:

1. The extent to which the proposed development will avoid the potential reverse sensitivity effects on and amenity and nuisance effects of the Radio Transmission site;
2. The risk of electromagnetic hazards affecting public or individual safety, and the risk of property damage;
3. Measures proposed to mitigate other adverse effects on the operation, maintenance, upgrading and development of the Radio Transmission site;
4. Technical advice from an electrical engineer specialising in radio transmission;
5. The outcome of any consultation with Radio New Zealand; and
6. Whether the building or structure could be located further from the Radio Transmission site.

MRZ - Medium Density Residential Zone

MRZ-Rx Buildings and structures within the Radio Transmission Height Control Area

1. Activity status: Permitted

Where:

- a. The building or structure is within the Radio Transmission Height Control Area B and is no greater than 101m in height the height outlined in the table below:

<u>Distance from Transmission Mast</u>	<u>Maximum height of buildings and structures</u>
<u>528m to 600m</u>	<u>11 metres</u>
<u>600m to 700m</u>	<u>12.5 metres</u>
<u>700m to 800m</u>	<u>14.5 metres</u>
<u>800m to 900m</u>	<u>16.5 metres</u>

900m to 1057m	18.75 metres
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Note: compliance with this standard does not remove the requirement to comply separately with MRZ-S2.

Or

- b. The building or structure is within the Radio Transmission Height Control Area A and is no greater in height than the maximum height calculated using the methodology in APP16 – Radio Transmission Height Control Area A – Maximum Height Calculation.

2. Activity status: Controlled

Where:

- a. Compliance is not achieved with MRZ-Rx-1.a; and
b. The building or structure is within the Radio Transmission Height Control Area B.

Matters of control are reserved to:

1. The matters in INF-P26

Section 88 information requirements for applications:

1. Applications under this rule must provide, in addition to the standard information requirements, an assessment prepared by a suitably qualified and experienced professional of the effects of electromagnetic radiation generated by RNZ's transmission site on the safety of workers and occupants of the proposed buildings and structures.

3. Activity status: Restricted discretionary

Where:

- a. Compliance is not achieved with MRZ-Rx-1.ba; and
b. The building or structure is within the Radio Transmission Height Control Area A.

Matters of discretion are restricted to:

1. The matters in INF-P26.

Notification:

- An application under this rule is precluded from being publicly notified in accordance with section 95A of the RMA.
- When deciding whether any person is affected in relation to this rule for the purposes of section 95E of the RMA, Porirua City Council will give specific consideration to any adverse effects on Radio New Zealand.

NCZ – Neighbourhood Centre Zone

NCZ-Rx Buildings and structures within the Radio Transmission Height Control Area

1. Activity status: Permitted

Where:

- a. The building or structure is within the Radio Transmission Height Control Area B and is no greater than ~~101m in height~~, the height outlined in the table below:

<u>Distance from Transmission Mast</u>	<u>Maximum height of buildings and structures</u>
<u>528m to 600m</u>	<u>11 metres</u>
<u>600m to 700m</u>	<u>12.5 metres</u>
<u>700m to 800m</u>	<u>14.5 metres</u>
<u>800m to 900m</u>	<u>16.5 metres</u>
<u>900m to 1057m</u>	<u>18.75 metres</u>

Note: compliance with this standard does not remove the requirement to comply separately with NCZ-S1.

Or

- b. The building or structure is within the Radio Transmission Height Control Area A and is no greater in height than the maximum height calculated using the methodology in APP16 – Radio Transmission Height Control Area A – Maximum Height Calculation.

2. Activity status: Controlled

Where:

- a. Compliance is not achieved with MRZ-Rx-1.a; and
 b. The building or structure is within the Radio Transmission Height Control Area B.

Matters of control are reserved to:

1. The matters in INF-P26

Section 88 information requirements for applications:

1. Applications under this rule must provide, in addition to the standard information requirements, an assessment prepared by a suitably qualified and experienced professional of the effects of electromagnetic radiation generated by RNZ's transmission site on the safety of workers or occupants of the proposed buildings and structures.

3. Activity status: Restricted discretionary

Where:

- a. Compliance is not achieved with MRZ-Rx-1.ba; and
 b. The building or structure is within the Radio Transmission Height Control Area A.

Matters of discretion are restricted to:

1. The matters in INF-P26.

Notification:

- An application under this rule is precluded from being publicly notified in accordance with section 95A of the RMA.
- When deciding whether any person is affected in relation to this rule for the purposes of section 95E of the RMA, Porirua City Council will give specific consideration to any adverse effects on Radio New Zealand.

[...]

TEMP – Temporary Activities

TEMP-R1 Temporary building and structures ancillary to a construction activity.

All zones 1. Activity status: **Permitted**

Where:

- The temporary building or structure is removed from the site within;
 - One month of the completion of the project; or
 - 24 months from when first placed on site; whichever is the lesser;
- The temporary building or structure does not exceed the height of buildings and structures standard for the zone in which it will be located;
 - The temporary building or structure does not exceed:
 - 191m in height within the Radio Transmission Height Control Area B the height outlined in the table below:

<u>Distance from Transmission Mast</u>	<u>Maximum height of temporary buildings and structures</u>
<u>528m to 600m</u>	<u>11 metres</u>
<u>600m to 700m</u>	<u>12.5 metres</u>
<u>700m to 800m</u>	<u>14.5 metres</u>
<u>800m to 900m</u>	<u>16.5 metres</u>
<u>900m to 1057m</u>	<u>18.75 metres</u>

Or

- The maximum height calculated using the methodology in APP16 – Radio Transmission Height Control Area A – Maximum Height Calculation within Radio Transmission Height Control Area A.
- ed. The temporary building or structure does not exceed the height in relation to boundary standard for the zone in which it will be located.

In case of doubt, TEMP-R1-1.b and TEMP-R1-1.ed do not apply to cranes.

This rule does not apply to temporary military training activities.

<p><u>Medium Density Residential Zone</u></p>	<p><u>2. Activity status: Controlled</u></p> <p><u>Where:</u></p> <p>a. <u>Compliance is not achieved with TEMP-R1-1.c.i; and</u> b. <u>The building or structure is within the Radio Transmission Height Control Area B.</u></p> <p><u>Matters of discretion are restricted to:</u></p> <p>1. <u>The matters in INF-P26.</u></p>
<p><u>Local Centre Zone</u></p>	<p><u>Section 88 information requirements for applications:</u></p> <p>1. <u>Applications under this rule must provide, in addition to the standard information requirements, an assessment prepared by a suitably qualified and experienced professional of the effects of electromagnetic radiation generated by RNZ's transmission site on the safety of workers or occupants of the proposed buildings and structures.</u></p>
<p><u>Medium Density Residential Zone</u></p> <p><u>Local Centre Zone</u></p>	<p><u>3. Activity status: Restricted discretionary</u></p> <p><u>Where:</u></p> <p>a. <u>Compliance is not achieved with TEMP-R1-1.c.ii; and</u> b. <u>The building or structure is within the Radio Transmission Height Control Area A.</u></p> <p><u>Matters of discretion are restricted to:</u></p> <p>1. <u>The matters in INF-P26.</u></p> <p><u>Notification:</u></p> <ul style="list-style-type: none"> • <u>An application under this rule is precluded from being publicly notified in accordance with section 95A of the RMA.</u> • <u>When deciding whether any person is affected in relation to this rule for the purposes of section 95E of the RMA, Porirua City Council will give specific consideration to any adverse effects on Radio New Zealand.</u>
<p>All zones</p>	<p><u>24. Activity status: Restricted discretionary</u></p> <p><u>Where:</u></p> <p>a. <u>Compliance is not achieved with TEMP-R1-1.a, TEMP-R1-1.b or TEMP-R1-1.ed.</u></p> <p><u>Matters of discretion are restricted to:</u></p> <p>2. <u>Positive effects enabled through the activity; and</u> 3. <u>The matters in TEMP-P2.</u></p>

APP16 – Radio Transmission Height Control Area A – Maximum Height Calculation

The intent of APP16 - Radio Transmission Height Control Area A – Height Calculation is to ensure that the health and safety of occupants and construction workers in or on buildings and structures within the Radio Transmission Height Control Area A is maintained.

The permitted maximum height of any building, structure, or any temporary buildings and structures ancillary to a construction activity, shall be the height determined by the calculation below:

$$\text{Maximum Height (m)} = \frac{11d}{528}$$

Where d is the distance in metres of the structure or building or part thereof from Radio New Zealand's radio transmission tower located on Whitireia Peninsula at [coordinates]. The maximum height shall be rounded to the nearest tenth of a metre.



An example is provided below, for clarity:

If a building or structure is proposed that is a minimum of 400 metres from the radio transmission tower, the maximum permitted height of that building or structure would be 8.3 metres.

