

**REPRESENTATION in SUPPORT**

**of SUBMISSION on**

**PROPOSED DISTRICT PLAN**

**BRIAN WARBURTON**

**For**

**ROBYN SMITH**

**Introduction**

1. My full name is Brian John Warburton.
2. I hold the qualification of Master of Science (Resource and Environmental Planning) which is a planning qualification accredited by the New Zealand Planning Institute. I have previously been a member of the New Zealand Institute of Surveyors and the New Zealand Planning Institute.
3. Between 1995 and 2020 I was involved with RMA consenting and plan changes associated with a range of residential and rural developments and subdivisions in the Wellington region. I have been personally responsible for RMA decision-making relating to many hundreds of development and subdivision projects in Wellington, Porirua and Kapiti Coast.
4. I am participating in these RMA proceedings as a support person for Robyn Smith.
5. Ms Smith is a submitter (No. 168). Ms Smith's submission relates to various matters associated with the Proposed District Plan (PDP) and she has contributed significantly to the preceding matters – heard, but not decided.
6. Ms Smith is also a further submitter (FS09) in respect of matters associated with the submission by Kainga Ora (Submitter No. 81).

**Primary Submission Points**

7. I have prepared a summary of Ms Smith's submission points which is attached to this representation. I intend to speak briefly to each point.

8. 168.36 – Scope of PC 18 - The provisions of the PDP do not apply to Plimmerton Farm. That is explicitly stated in the public notice. There can be no doubt.
9. 168.64 – Extent of Significant Natural Areas (SNAs) - The planning maps for the PDP depict SNA areas within the Plimmerton Farm site. It is not possible for the SNA policy overlay in the PDP to apply to the Plimmerton Farm site. Refer submission point 168.36.
10. 168.98 – Existing Uses in Residential Areas - Under rule GRZ-R1 and standard GRZ-S6 no 'credit' is given for those existing residential developments where it is not possible to comply with GRZ-S6 so it's conceivable that a resource consent would be required if only minor additions and alterations were proposed.
11. 168.99 – Effects from Vegetation that are Equivalent to Effects from Buildings - The plan needs provisions to manage vegetation in the residential area where it can affect amenity (e.g. shading and views).
12. 168.100 and 168.101 – Height of Fences on Boundary with Public Reserve - Permitted activity standards GRZ-S9 and MRZ-S10 specify that the maximum permitted height of a fence is 1.2 metres where the site boundary adjoins a public reserve. Ms Smith supports this provision.
13. 168.102 – Height in Relation to Boundary - Permitted activity standards GRZ-S2 and MRZ-S2 specify the permitted height of buildings depending on their distance from the boundary. The standard needs amendment so the vertical component is limited to 1.2 metres where it relates to a boundary between residential and land within the Open Space Zone.
14. 168.103 – Extent of Medium Density Zone in Titahi Bay – Ms Smith is opposed to the MRZ zone being any greater in areal extent.

#### **Further Submission Points**

15. As noted above, Ms Smith has further submitted on the submission by Kainga Ora (Submitter No. 81).

16. The Council officer's summary of Ms Smith's further submission points leaves a lot to be desired. Some of MS Smith's submission points are overlooked completely and not assessed at all, and some relate to submission points that Kainga Ora wishes to withdraw but, despite this, which are mentioned in the s42A report nonetheless.
17. But in summary, Ms Smith opposes all parts of Kainga Ora's submission that attempts to expand the plan change beyond that which was notified and exceeds what any reasonable person who might have envisaged and anticipated/considering submitting on. Ms Smith mentions previous (failed) attempts by Kainga Ora to expand the scope of a plan change applicable to housing intensification in Hutt City (HCC PC43) by way of submission.

**Summary**

18. I am happy to provide clarification needed by the Panel or answer any questions it has.



Brian Warburton

04 March 2023

**Proposed District Plan - Representation by Robyn Smith (Submitter 168 and Further Submitter FS09)**

Sub No. / Point No.	Chapter / Sub-part	Specific provision / matter	Position	Reasons	Decisions Requested by Ms Smith	Comment
168.36	Plimmerton Farm	Plimmerton Farm -Plan Change 18	Oppose	The public notice for the PDP includes this statement. <i>"It applies to all properties in the City except for the area known as Plimmerton Farm that is the subject of Plan Change 18 to the Operative Porirua District Plan."</i>	Opposed to any provision of the PDP by way of submissions by others, or by council officer evidence and/or recommendations, that would result in, or attempt to result in, the provisions of the PDP being applicable to subdivision, use and development of land within the Plimmerton Farm site (being Lot 2 DP 489799).	Ms Smith continues to be opposed to this submission point.  Ms Smith notes that the author for the s42A 'Overarching report' agrees completely with Ms Smith.
168.64	Plimmerton Farm	General	Amend	There are SNAs included on the maps and in SCHED7, which are within the area of Plimmerton Farm. It is not possible for the SNA policy overlay to apply to the Plimmerton Farm site.  The public notice for the PDP which includes a statement addressing what is not covered by the PDP.	Amend the PDP so that the SNA policy overlay does not apply to the Plimmerton Farm site.	This submission point by Ms Smith is not referred to, or addressed, in any of the s.42A reports. In addition, it has not been assessed in any of the previous Hearing Streams.  I consider that the submission and the outcome sort by Ms Smith should be assessed in s.7.16 of the 'Overarching Report'.  Ms Smith agrees with the s42A author's recommendations summarised in Paras. 501, 502, and 504 of the 'Overarching Report'.

168.98	GRZ - General Residential Zone	Existing Use Rights - Residential	Amend	Under rule GRZ-R1 buildings and structures are permitted so long as compliance is achieved with the standards GRZ-S1 to GRZ-S7. Standard GRZ-S6 relates to outdoor space and sets minimum areas and dimensions etc. Under rule GRZ-R1 and standard GRZ-S6 no 'credit' is given for those existing residential developments where it is not possible to comply with GRZ-S6 so it's conceivable that a resource consent would be required if only minor additions and alterations were proposed.	Amend the provisions so that credit for existing situations is specified, much as it currently is in the operative district plan.	<p>This submission point by Ms Smith is not referred to or addressed in any of the s.42A reports. I presume this might be because with Variation 1 it is proposed to delete GRZ chapter.</p> <p>Nonetheless, the submission point clearly refers to matters relating to building bulk and density which are the subject for chapters proposed to be included with Variation 1.</p> <p>I consider it would be appropriate to address this submission point in s.3.13 'PDP General Submissions' in the s42A report relating to 'Residential Zones, Planning Maps and General Topics'.</p>
168.99	GRZ - General Residential Zone	Residential bulk and location standards	Amend	The plan needs provisions to manage vegetation in the residential area where it can affect amenity (e.g. shading and views).	Amend the bulk and location standards (height, and also height in relation to distance from boundary) for buildings so that they also apply to vegetation.	<p>The s42A report relating to 'Residential Zones, Planning Maps and General Topics' considers this submission point should be rejected because in the author's opinion: <i>"It is not practical to monitor and enforce such controls"</i>.</p> <p>I don't agree with the claim practicality is sufficient in its itself to reject the point. If 'practicality' was the only consideration then there is a number of other plan provisions that also should be discounted: controls over hard surfacing; or, the</p>

						height of a boundary fence where it doesn't need building consent; being two examples.
168.100	GRZ - General Residential Zone	GRZ-S9	Support	Permitted activity standards GRZ-S9 and MRZ-S10 specify that the maximum height of a fence shall be 1.2m where the site boundary adjoins a public reserve.	Supports these provisions.	<p>The terminology in the s42A report relating to 'Residential Zones, Planning Maps and General Topics' implies that Variation 1 already has effect, or in other words Variation 1 is a 'done-deal'. For example, the author makes these statements:</p> <ul style="list-style-type: none"> <li>• <i>"and under Variation 1, the zone has been deleted" and,</i></li> <li>• <i>"since the GRZ-General Residential Zone has been deleted"</i></li> </ul> <p>(refer Paras. 360 and 363). Variation 1 only proposes to vary the provisions of the PDP, and the GRZ will not be deleted until Variation 1 is approved, in whatever form that might be.</p> <p>The s.42A author uses past tense phraseology, with one possible inference being that the author is not approaching the task of assessing the plan provisions in a RMA context (which are still to be confirmed) with an open-mind.</p>
168.101	MRZ - Medium Density Residential Zone	MRZ-S10	Support	Permitted activity standards GRZ-S9 and MRZ-S10 specify that the maximum height of a fence shall be 1.2m where the site boundary adjoins a public reserve.	Supports these provisions.	<p>This submission point by Ms Smith is not referred to, or addressed, in any of the s.42A reports. Nonetheless, the s42A report relating to 'Residential Zones, Planning Maps and General Topics' suggests the author agrees with the submission</p>

				Activities on residential land adjoining open space land need to be controlled (e.g. so they do not dominate the open space) and affect amenity of the open space (e.g. shading and views).		point made (refer Appendix C of the s.42A report).
168.102	GRZ - General Residential Zone	GRZ-S2	Amend	Permitted activity standards GRZ-S2 and MRZ-S2 specify the permitted height of buildings depending on their distance from the boundary. In both cases the restriction is determined from a line commencing 3m above the ground at the boundary. However, activities on residential land adjoining open space land need to be controlled: eg, so they do not dominate the open space) and affect amenity of the open space (e.g. shading and views).	Amend so that the height control line begins 1.2m above the ground at the boundary where it is a common boundary between the residential land and land that is in the OSZ.	This submission point has been incorrectly allocated to the group of submission points only associated with the GRZ. The submission actually refers to the GRZ-S2 <b>and the MRZ-S2</b> standards (refer para. 8.2.4 of Ms Smith’s submission). Therefore, the submission point cannot be discounted simply because with Variation 1 it is proposed to delete the GRZ. But this is what the s.42A author has attempted by spuriously recommending the submission point be rejected (refer Paras. 365 and 366 of the s.42A report). The submission point is ‘live’ and needs to be assessed.
168.103	GRZ - General Residential Zone	Medium Density Zone – Titahi Bay	Support	Refer to original submission]	Supports parts of Titahi Bay being identified as being suitable for medium density development. Does not support the extent of the MRZ being any greater than is currently shown on the PDP maps.	The terminology in the s42A report relating to ‘Overarching’ matters implies that Variation 1 already has effect, or in other words Variation 1 is a ‘done-deal’. For example, the author makes these statements: <ul style="list-style-type: none"> <li>• <i>“the urban intensification requirements of the NPS-UD and S77(G) of the RMA were</i></li> </ul>

						<p><i>incorporated into the PDP” and,</i></p> <ul style="list-style-type: none"> <li>• <i>“the MRZ-Medium Density Residential Zone is now applied much more extensively City-wide”</i></li> </ul> <p>(refer Paras. 595 and 598).</p> <p>Variation 1 only proposes to vary the provisions of the PDP. The NPS-UD will only be incorporated into the PDP, and the MRZ will only be expanded, when Variation 1 is approved in whatever form that might be.</p> <p>The s.42A author uses past tense phraseology, with one possible inference being that the author is not approaching the task of assessing the plan provisions in a RMA context (which are still to be confirmed) with an open-mind.</p>
FS09.1	New Provision, Section 32 Evaluation Report, new High Density Residential Zone, National Policy Statement for Urban Development 2020	81.1	Oppose original submission	Kainga Ora therefore seeks outcomes from the district plan review process that are not within the scope of the proposed district plan as it was notified. Kainga Ora has previously sought similar outcomes via Plan Change 43 to the Hutt City District Plan. In that instance, Hutt City Council (HCC) sought a legal opinion.	Reject original submission	Ms Smith continues to be opposed to this submission point.



FS09.2	Rezoning, Section 32 Evaluation Report, National Policy Statement for Urban Development 2020	81.941	Oppose original submission	Kainga Ora seeks outcomes from the district plan review process that are not within the scope of the proposed district plan as it was notified. Kainga Ora has previously sought similar outcomes via Plan Change 43 to the Hutt City District Plan. In that instance, Hutt City Council (HCC) sought a legal opinion.	Reject original submission	According to the S42A report 'Residential Zones' Kāinga Ora has confirmed it is not pursuing this submission point (see Table 3 in Para.67).
FS09.3	Rezoning, Section 32 Evaluation Report	81.946	Oppose original submission	Kainga Ora seeks outcomes from the district plan review process that are not within the scope of the proposed district plan as it was notified. Kainga Ora has previously sought similar outcomes via Plan Change 43 to the Hutt City District Plan. In that instance, Hutt City Council (HCC) sought a legal opinion.	Reject original submission	According to the S42A report 'Residential Zones' Kāinga Ora has confirmed it is not pursuing this submission point (see Table 3 in Para.67). Regardless, 81.946 is referred to in the s42A report ((see paras. 70 and 78, and Table B1). Ms Smith continues to be opposed to this submission point.
FS09.4	Rezoning; Section 32 Evaluation Report, new High Density Residential Zone	81.19	Oppose original submission	A High Density Residential Zone (HRZ) is appropriate where residential development must be enabled to a height of at least six storeys in locations as directed by the NPS-UD. The key principles applied by Kāinga Ora in seeking to provide for and enable opportunities for high density intensification in locations that are generally within a 400m (5min) walkable	Reject original submission	According to the S42A report 'Residential Zones' Kāinga Ora has confirmed it is not pursuing this submission point (see Table 3 in Para.67). Regardless, 81.19 is referred to in the s42A report (see paras. 118 and 133, and Table B1). Ms Smith continues to be opposed to this submission point.

				<p>catchment from Porirua City Council's City Centre/Large Format Zones and within a 400m (5min) walk of Rapid Transit Stops (railway stations). Kāinga Ora submits that these principles should generally apply in determining the zoning of high-density residential areas under the PDP to give effect to the NPS-UD. Kāinga Ora has identified locations in accordance with these principles where a HRZ is sought, as shown in the appended maps at Appendix 3 to its submission.</p>		
FS09.5	Rezoning	81.9 to 81.16	Oppose original submission	<p>Kainga Ora seeks outcomes from the district plan review process that are not within the scope of the proposed district plan as it was notified. Kainga Ora has previously sought similar outcomes via Plan Change 43 to the Hutt City District Plan. In that instance, Hutt City Council (HCC) sought a legal opinion.</p>	Reject original submission	<p>According to the S42A report 'Residential Zones' Kāinga Ora has confirmed it is not pursuing submission points 81.9 to 81.12 (see Table 3 in Para.67). Regardless, submission points 81.9 to 81.12 are referred to in the s42A report (see paras. 70 and 78, and Table B1). Ms Smith continues to be opposed to this submission point.</p>
FS09.6	Rezoning, Section 32 Evaluation Report, National Policy Statement for Urban	81.942	Oppose original submission	<p>Kāinga Ora notes that the PDP has not provided a High Density Residential Zone. Kāinga Ora considers that a HRZ is appropriate where residential development must be enabled to a height of at</p>	Reject original submission	<p>According to the S42A report 'Residential Zones' Kāinga Ora has confirmed it is not pursuing this submission point (see Table 3 in Para.67). Regardless, 81.942 is referred to in the s42A report (see paras. 118 and 133, and Table B1).</p>

	Development 2020			<p>least six storeys in locations as directed by the NPS-UD. Key principles applied in seeking to provide for and enable opportunities for high density intensification in locations that are generally within:</p> <ul style="list-style-type: none"> <li>• 400m (5min) walkable catchment form Porirua City Council's City Centre/Large Format Zones; and</li> <li>• 400m (5min) walk of Rapid Transit Stops (railway stations)</li> </ul> <p>Kāinga Ora submits that these principles should generally apply in determining the zoning of high-density residential areas under the PDP to give effect to the NPS-UD.</p>		Ms Smith continues to be opposed posed to this submission point.
FS09.7	National Policy Statement for Urban Development 2020, New Zone	81.923	Oppose original submission	<p>Kainga Ora seeks outcomes from the district plan review process that are not within the scope of the proposed district plan as it was notified. Kainga Ora has previously sought similar outcomes via Plan Change 43 to the Hutt City District Plan. In that instance, Hutt City Council (HCC) sought a legal opinion.</p>	Reject original submission	Ms Smith continues to be opposed to this submission point.

FS09.8	Rezoning	81.912	Oppose original submission	Kainga Ora seeks outcomes from the district plan review process that are not within the scope of the proposed district plan as it was notified. Kainga Ora has previously sought similar outcomes via Plan Change 43 to the Hutt City District Plan. In that instance, Hutt City Council (HCC) sought a legal opinion.	Reject original submission	Ms Smith continues to be opposed to this submission point.
FS09.9	Rezoning; Section 32 Evaluation report	81.18	Oppose original submission	Kainga Ora seeks outcomes from the district plan review process that are not within the scope of the proposed district plan as it was notified. Kainga Ora has previously sought similar outcomes via Plan Change 43 to the Hutt City District Plan. In that instance, Hutt City Council (HCC) sought a legal opinion.	Reject original submission	Ms Smith continues to be opposed to this submission point.