

BEFORE THE INDEPENDENT HEARINGS PANEL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Far North District Plan

HEARING TOPIC 1 – INTRODUCTION, GENERAL PROVISIONS & TANGATA WHENUA

**STATEMENT OF EVIDENCE OF DEANNE MARIE ROGERS FOR KAIROS CONNECTION TRUST & HABITAT
FOR HUMANITY NORTHERN REGION LTD (Submitter #138)**

PLANNING

13 May 2024

INTRODUCTION

- 1.1 My full name is Deanne Marie Rogers. I am a senior resource management planner with more than 25 years planning experience in New Zealand and in Canada. I hold a Bachelor of Arts (Geography) degree from the University of Otago and a Bachelor of Planning (Hons) degree from the University of Auckland. I am a full Member of the New Zealand Planning Institute.
- 1.2 I have worked in a variety of consultant planner roles advising on resource consent applications involving the preparation of Assessment of Effects on the Environment (AEE), the processing of resource consent applications for councils, the preparation of submissions on district plan changes and advising councils on proposed plans. I also have experience in the preparation of expert evidence and as a planning witness at the Environment Court. I have experience in the development of district plan policy and plan changes for the former Waitakere City Council (now Auckland Council).
- 1.3 I am currently employed in Kerikeri on a parttime contract basis for a local planning consultancy. However, this evidence is provided on a private advisory basis for Kairos Connection Trust (“KCT”) and Habitat for Humanity Northern Region Ltd (“HHNR”) (Submitter #138) (“the Submitter”).

2 CODE OF CONDUCT

- 2.1 I have read and am familiar with the Environment Court’s Code of Conduct for Expert Witnesses (Environment Court Practice Note 2023) and agree to comply with it. My qualifications as an expert are set out above. I confirm that the matters addressed in this statement of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.
- 2.2 In my capacity as an expert planning witness acting for the Submitter, I wish to declare that I am a member of Kerikeri Baptist Church, of which KCT is a subsidiary. I have a personal interest in matters relating to the availability of affordable housing in Kerikeri where I reside, and the wider Far North District. I have provided this expert evidence on a pro-bono basis.
- 2.3 I am authorised to give this evidence on behalf of the Submitter.

3 SCOPE OF EVIDENCE

3.1 The Hearing Topic 1 covers the opening chapters of the Proposed Far North District Plan (PDP). This includes the Introduction, Strategic Direction, Tangata Whenua, and the Part 1 General Provisions / Miscellaneous topics. The Council's Section 42A reports are divided as follows:

- (i) Strategic Direction
- (ii) Tangata Whenua
- (iii) Part 1 & General / Misc

3.2 The Submitters evidence relates to the submission points that have been assigned to the Hearing 1 topic and addressed in the Section 42A reports relating to the 'Strategic Direction' and 'Part 1 & General Misc'. For ease of reference and the reporting officers response, the submission points are discussed by 'theme'. In addition to the Strategic Direction, this evidence relates to the Part 1 report Key Theme 6 that deals with 'New Chapters'.

3.3 My evidence is intentionally brief, and deals primarily with matters of fact that are relevant to the consideration of the Submitters overarching concern and request that the Council give urgent attention to the issue of housing affordability in the Far North and fully utilising the planning tools available to it under the Resource Management Act 1991 ("RMA"). The provision of this evidence is largely prompted by the Council officers recommendation to reject the Submitters' request to include an Inclusionary Housing Chapter in the PDP.

4 SUBMISSION OVERVIEW

4.1 The Submitter's submission (#138) relates to the issue of housing affordability in the Far North District with a particular focus on Kerikeri. From the Submitter's perspective, housing affordability is an issue for the 'working poor' (those persons who are employed at or just above the minimum wage) and who struggle to pay for rental accommodation or to purchase a home because of the high cost of property in Kerikeri. Much of this demand is driven by the service industry nature of the town that employs a large number of people in retirement villages, aged care services, tourism, hospitality and horticulture. As outlined in the submission KCT and HHNR have a community housing advocacy role. HHNR is a registered Community

Housing Provider (CHP) and is actively engaged in building affordable homes in Kerikeri and throughout New Zealand.

4.2 The Submitter's submission covers PDP topics relating to the Strategic Direction, Infrastructure, the Mixed Use Zone (which applies to the Kerikeri Baptist Church land in Hobson Road), Subdivision and Inclusionary Zoning. The submission points for **Topic 1** are assigned as follows:

- (a) Strategic Direction – Economic and Social Wellbeing- Retain SD-SP-01 – s138.001
- (b) Strategic Direction – Economic and Social Wellbeing- Retain SD-SP-03 – s138.002
- (c) Strategic Direction – Urban Form and Development – Retain SD-UFD-01 – S138.003
- (d) Strategic Direction – Urban Form and Development – Retain SD-UFD-02 – S138.004
- (e) Include a new Inclusionary Housing Chapter in the PDP – S138-021

4.3 In relation to Inclusionary Zoning, the Submitter has requested that the Council consider including a separate chapter in the PDP that would enable the Council to utilise financial contribution tools under the RMA. Inclusionary zoning as a tool for obtaining land or money for the development of affordable housing and the Queenstown Lakes District Council example is explained in the Submitter's submission. As further explanation and to provide a more detailed understanding about Inclusionary Zoning in the New Zealand context, I have attached a copy of the Community Housing Aotearoa report 'Inclusionary Zoning – A Path Forward in Aotearoa New Zealand' at **Attachment 1**. Mr Conrad La Pointe and Mrs Shirley Ayers will also speak briefly to the issue of affordable housing in the Far North and in the wider New Zealand context.

5 **STRATEGIC DIRECTION OF THE PDP**

5.1 The Submitter has sought that the intent and wording of the proposed strategic directions SD-SP-01, SD-SP-03, SD-UFD-01, SD-UFD-02 is retained. These strategic directions provide the basis for securing the wellbeing of people and communities living and working in the Far North District. They are consistent with the section 5 sustainable management purpose of the RMA

that is to manage natural and physical resources in a way, or at a rate that enables people and communities to provide for their social, economic and cultural wellbeing.

- 5.2 The Submitter is pleased that the Council officers recommendation is to retain the strategic directions in their notified form, with the exception of SD-SP-01. As explained in paragraph 87 and 100 of the Strategic Direction 42A report, the Submitter supports the proposed amendment to SD-SP-01 to better explain the term 'sense of place'.

6 NEW PDP CHAPTER - INCLUSIONARY ZONING

- 6.1 As explained above in paragraph 4.3, the Submitter has sought that the Council include a new chapter in the PDP that would essentially introduce a type of financial contribution requirement to enable land or money to be taken for the purpose of increasing the supply of affordable housing accommodation in the Far North. The submission request is worded as follows:

“To further improve housing choices for low-moderate income households in the Far North and in addition to the amendments sought above, Kairos and Habitat NZ seek that the Council consider including a separate Inclusionary Housing chapter, or integrate throughout proposed subdivision and residential and mixed use zone chapters, provision for inclusionary housing that would require a 5% share of the estimated value of the sale of subdivided lots (or as appropriate to the Far North context) to a nominated CHP to ensure the establishment of affordable housing within its high growth urban environments. The appropriate % share of lots would need to be determined for the Far North District, as it would essentially be a financial contribution condition for which a district plan policy is required under Section 108 (10).”

- 6.2 While it would be desirable for the Council to adopt such a chapter into its PDP as an outcome of the hearing on submissions, the submitter has not underestimated the amount of technical work involved in developing an appropriate set of provisions for the Far North District context. The Submitter expects that if the Council is in agreement with the use of the Inclusionary Zoning tool in its PDP, then it would need to commit the necessary resources to undertake this work.
- 6.3 The Submitter itself does not have the resources or the expertise to undertake the work, however it would continue to encourage the Council to consider this planning tool that is

available to them. The Submitter understands that since submissions closed on the PDP, the Council has agreed to prepare a Housing Strategy for the Far North and to investigate ways in which housing affordability can be improved. The Submitter also understands that the Council is working towards reintroducing a financial contributions policy and chapter that may be included in the PDP, either as a variation to the current PDP RMA Schedule 1 process or as a separate plan change that could be notified after the PDP is made operative.¹

- 6.4 The purpose of this part my evidence is not to provide further planning or other technical information to support an inclusionary zoning chapter, but to address the Council officers reasons for rejecting the inclusion of such a chapter. I also wish to briefly address objections to this submission from the further submitters Kāinga Ora (FS-243) and Turnstone Key Properties (FS-325).
- 6.5 The Submitter's request to include an inclusionary zoning chapter in the PDP is discussed in section 5.2.4 and paragraphs 178-179 of the Part 1 Section 42A report and states the following:

Analysis

178. A "Inclusionary housing chapter" is not listed the National Planning Standards district plan structure. While there could be merit in providing for inclusionary housing within proposed zones or a special purpose zone.
179. There is no evidence or detail in these submission points as such I am unable to assess the appropriateness of the relief sought. For these reasons I recommend these submission points are rejected.

- 6.6 Other than the lack of evidence that would provide details for an inclusionary housing chapter, the Council officer appears to have rejected the request because an inclusionary housing chapter is not included in the National Planning Standards district plan structure. I disagree with this rationale for the following reasons:
- (a) The National Planning Standards are a form of national direction introduced through the 2017 amendments to the Resource Management Act 1991 to make RMA plans more consistent with each other, easier to use and faster to make.² The planning standards set the form and standards of RMA Plans, establish nationwide definitions and require Plans to be accessible online via an EPlan. The structure of a Plan,

¹ https://infocouncil.fndc.govt.nz/Open/2024/03/CO_20240314_AGN_2730_AT.HTM

² <https://environment.govt.nz/assets/Publications/Files/information-for-elected-representatives.pdf>

including mandatory chapters and the location of optional chapters are specified. Section 7 paragraph 38 states that any additional chapters to address matters on a district-wide basis must be included alphabetically under the ‘*General District-wide matters*’ heading. The NPS does not preclude any specific chapters or topics in a District Plan.

- (b) Other than mandatory content, the development of Plan provisions to achieve the objectives of a region or district remains the responsibility of local authorities in conjunction with their communities. This could include financial contributions or provisions relating to the very specific inclusionary zoning provisions. As an inclusionary zoning policy can include financial contributions required as a condition of a land use or subdivision consent, it is appropriate that it be located in a Plan as a separate District-wide chapter, along with the policy basis for the contribution requirement.
- (c) The FNDC itself has been contemplating introducing a financial contributions chapter into the PDP. This could include contributions that involve inclusionary zoning provisions. While the reporting to the Council committee did not specify where such a chapter might be placed within its own PDP structure, it is unlikely it would be contemplating such a chapter if the National Planning Standards precluded it³.

6.7 Two further submitter parties have opposed the Submitters’ request for an Inclusionary Zoning chapter. These include Kāinga Ora (FS-243) and Turnstone Key Properties (FS325.012). The objection from Kainga Ora states:

“Kāinga Ora endorses the need to address affordability within the Far North District. However, Kāinga Ora opposes the relief sought. The Queenstown Lakes District Council Inclusionary Housing Plan Change remains incomplete and submissions on the plan change are yet to be heard. There have been no hearings on the plan change, and therefore the approach proposed by the Council is not confirmed. Majority of the submissions made on the QLDC Plan Change opposes the approach taken by the Council and several of those submissions are questioning the legality of the provisions within the RMA framework.”

The Turnstone Key Properties objection states:

³ https://infocouncil.fndc.govt.nz/Open/2024/03/CO_20240314_AGN_2730_AT.HTM#_Toc160626974

“TT does not support the proposed inclusionary housing mechanism. No assessment has been provided of the costs and benefits of such a scheme in the Far North District to support an understanding of whether the proposal is the most appropriate way to achieve the purpose of the RMA or the objectives of the pFNDP.”

- 6.8 Turning firstly to the Kainga Ora objection, at the time of the PDP submission and further submission period, the further submitter is correct in stating that the proposed variation to the Queenstown Lakes Proposed District Plan to include an Inclusionary Housing chapter had not proceeded beyond submissions being lodged. Hearings on this variation were held earlier this year in February and March 2024. A decision on the variation has not yet been released.
- 6.9 As an example of how Inclusionary Zoning (or Inclusionary Housing as referred to by the Queenstown Lakes District Council) can be adopted under the RMA, the Submitter has referred to the QLDC example in its submission. At the invitation of the Submitter, representatives of Queenstown Lakes Community Housing Trust (the QLDC CHP recipient and administrator of Inclusionary Housing contributions) have previously visited Far North District Council and made presentations on how Inclusionary Housing (zoning) works in the Queenstown Lakes context and how it might be adopted in the Far North. It is still considered to be a useful model to help guide the development of an inclusionary zoning (financial contribution type) policy and rule that could be included in the PDP.
- 6.10 As to the legality of Inclusionary Zoning and the Council’s ability to require it as a form of financial contribution under s108 (2)(a) and s108(10) of the RMA, the QLDC has responded to similar objections from submitters. Legal counsel for QLDC responded to these objections and confirmed by way of legal opinion that:
- (a) Inclusionary housing (zoning) is consistent with Part 2 of the RMA and the section 5 sustainable management purpose;
 - (b) Inclusionary housing (zoning) as a type of financial contribution can be used to address adverse effects and to generate positive effects on the environment, which includes people and communities. The lack of affordable housing in any community, particularly where the demand for housing is generated by unmanaged urban growth, or growth in business types that generate a demand for employee housing, is a legitimate adverse effect on the environment. The financial contributions tool

can be used to direct a market correction to supply affordable housing, which is a positive effect;

- (c) That as a function of District Plans that give effect to Part 2 of the RMA, they can and do include provisions that address the environmental consequences of developments that affect the market supply of affordable housing;
- (d) As introduced with the 2017 amendment to the RMA, the Section 31(1)(aa) function of District Council's is *"the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in respect of housing and business land to meet the expected demands of the district"*. The explanatory note to the Bill stated that: *"This is designed to enable better provision of residential and business development capacity, and therefore improved housing affordability outcomes."*

6.11 A copy of the QLDC legal submission on its inclusionary housing variation is attached to my evidence at **Attachment 2**.

6.12 While the Far North District does not have any Tier 1, 2 or 3 urban environments as defined under the National Policy Statement – Urban Development, as good planning practice, the Council has undertaken steps to project the growth of the District under a low, medium and high growth scenario, which includes the larger township of Kerikeri. A spatial plan to determine the location of future urban growth is underway for the Waipapa and Kerikeri geographic areas and issues relating to housing affordability is to be addressed as part of a Housing Strategy. A review of financial contributions and the opportunity to advance a financial contributions policy and rules to be included in the PDP has been agreed to⁴.

6.13 The further submission from Turnstone Key Properties correctly points out that the request to include an Inclusionary Zoning chapter in the PDP does not include detailed provisions that would apply in the Far North context and has not been subject to a cost-benefit analysis or a full analysis that would be expected under Section 32 of the RMA. The Submitter agrees with this submission and would expect this as a next step should the Council decide to utilise the Inclusionary Housing method as part of its approach to addressing the issue of affordable housing supply in the Far North District.

Deanne Marie Rogers
13 May 2024

⁴ https://infocouncil.fndc.govt.nz/Open/2024/03/CO_20240314_MIN_2730.HTM