

**BEFORE INDEPENDENT HEARING COMMISSIONERS
APPOINTED BY THE WAIKATO DISTRICT COUNCIL**

IN THE MATTER of the Resource Management Act 1991
(**RMA**)

AND

IN THE MATTER of the Proposed Waikato District Plan

BETWEEN **RANGITAHİ LIMITED**

Submitter [No. 343]

AND

WAIKATO DISTRICT COUNCIL

Local Authority

**SUMMARY STATEMENT OF EVIDENCE OF
BEN MAXWELL INGER FOR RANGITAHİ LIMITED**

HEARING 27D: COASTAL HAZARDS

(PLANNING)

Dated: 7 May 2021

Solicitors on Record

BURTON PARTNERS
SOLICITOR — TONY NICHOLSON

PO Box 8889, Symonds Street, Auckland 1150, DX CP24147
P 09 300 3775 F 09 300 3770 E jeremy.carr@burtonpartners.nz

Counsel

Dr R A MAKGILL
BARRISTER

PO Box 77-037, Mt Albert, Auckland 1350
P 09 815 6750 E robert@robertmakgill.com

INTRODUCTION

1. My name is Ben Maxwell Inger. I provided evidence in chief (**EiC**), dated 16 April 2021, on Planning matters related to Rangitahi Ltd's submission on the Proposed Waikato District Plan (**pWDP**) for the Coastal Hazards hearing.
2. I outlined my qualifications, experience and commitment to comply with the Environment Court Expert Witness Code of Conduct in my EiC.

SUMMARY OF EVIDENCE

3. I summarise my evidence as follows:

Background

- (a) The Rangitahi Peninsula is subject to a comprehensive structure plan. The structure plan and related provisions were introduced into the Operative Waikato District Plan (**oWDP**) through a private plan change (**Plan Change 12**) which was made operative in 2015. The plan change involved rezoning the land from Rural Zone to Rangitahi Living Zone.
- (b) The oWDP requires Precinct specific assessments of coastal hazards on the Rangitahi Peninsula as part of Comprehensive Development Plan land use consents prior to any development occurring.
- (c) Resource consents have been granted to date under the oWDP for Precincts A, B and D, totalling 271 residential lots. Titles for the first stages of development within Precincts A and B were issued in June 2020 and the first houses are currently being built. Construction of civil works for Precinct D is underway.

Proposed District Plan Zoning and Coastal Hazard Overlays

- (d) The Rangitahi Peninsula is zoned Rangitahi Peninsula Zone under the pWDP. The Rangitahi Peninsula Structure Plan maps have been carried over unchanged into the pWDP from the oWDP. The site is also affected by coastal hazard overlays.
- (e) The plans in Annexure 1 of my EiC show the relationship between the coastal hazard overlays recommended in the s.42A Report, lots at

Rangitahi where titles have issued (Precincts A and B), lots which are subject to approved resource consents and are under construction (Precinct D) and the Structure Plan development layout for the remaining future precincts (Precincts C, E, F and G).

Changes Sought to Proposed District Plan

Building within the Coastal Sensitivity Area (Erosion)

- (f) I recommend a new Rule 15.7.1 P5 to allow construction of new buildings and additions to existing buildings as Permitted Activities in the Coastal Sensitivity Area (Erosion) on lots in the Rangitahi Peninsula Zone which were created by a subdivision consent granted prior to the date of decisions on the pWDP. This would cover the approximately 25 residential lots that are partially affected by the Coastal Sensitivity Area (Erosion) overlay in consented Precincts A, B and D.
- (g) The s.42A Rebuttal Evidence recommends rejecting this relief on the basis that a further consenting process would enable consideration of the potential need for development to be designed to be adaptive (i.e. relocatable) to address the effects of climate change over the next 100 years¹.
- (h) Mr Read's EiC confirms that coastal hazards were considered as part of Plan Change 12 and as part of the assessments of the resource consent applications for Precincts A, B and D. He considers that the resulting geotechnical design requirements for 'specific design zones' will ensure that development is resilient to geotechnical risks associated with coastal hazards, including the potential geotechnical effects of climate change. The 'specific design zone' requirements are addressed through consent notices on the titles of the affected lots. Based on the site-specific assessments which have been undertaken, Mr Read considers there is no need for adaptive design to manage coastal hazard risks for buildings within Precincts A, B and D².

¹ Section 42A Rebuttal Evidence (3 May 2021), at para. [44].

² Ken Read Highlights Package, at para. [3(s)].

- (i) I consider that a further consenting process would be unnecessary and inefficient. The new Rule 15.7.1 P5 that I recommend reflects that coastal hazard risks have been appropriately addressed for Precincts A, B and D.

High Risk Coastal Hazard (Erosion) Area Mapping

- (j) The amendments to the High Risk Coastal Hazard (Erosion) Area mapping that are recommended in the s.42A Report mean that it is no longer likely that there will be a need for construction of buildings within this overlay at Rangitahi. The amendments address the concerns raised in Rangitahi's submission.

Subdivision in the Coastal Sensitivity Areas

- (k) The s.42A Rebuttal Evidence agrees with my recommendation for subdivision in the Coastal Sensitivity Areas to be a Restricted Discretionary Activity (rather than a Discretionary Activity) through new Rules 15.7.2 RD2 and 15.8.2 RD2.
- (l) The s.42A Rebuttal Evidence proposes some additional changes to the assessment criteria which I have recommended³. I agree with those changes.

Subdivision of Balance Lots in the High Risk Coastal Hazard Areas

- (m) Most future subdivision at Rangitahi is likely to be capable of being undertaken in a manner that avoids creation of residential lots within the areas affected by coastal hazard overlays. However, rural balance lots created by each subdivision stage will be affected in small, localised areas by the overlays, including the High Risk Coastal Hazard Areas.
- (n) I recommended new Restricted Discretionary Activity rules in my EIC to address this situation for subdivision of rural lots over 5 hectares which are partially within the High Risk Coastal Hazard Areas and which contain a complying building platform outside the overlays.

³ Section 42A Rebuttal Evidence, at Section 5.7.

- (o) The s.42A Rebuttal Evidence concludes that my recommended changes are unnecessary on the basis that balance lots would not constitute an 'additional vacant lot' and are therefore exempt from the rules⁴. I have considered this interpretation and I accept it. On this basis I no longer consider Rules 15.9.1A and 15.10.1A in my EiC to be necessary.
- (p) The s.42A Rebuttal Evidence agrees with my recommended changes to Rules 15.9.2 D7(1)(a) and 15.10.2 D6(1)(a) to delete the Discretionary Activity status for subdivision of additional lots which are located entirely outside a High Risk Coastal Hazard Area⁵. I support this change because there would be no coastal hazard risk.

Summary

- (q) I consider that a Permitted Activity status is appropriate for building in the Coastal Sensitivity Area (Erosion) on lots within Precincts A, B and D of the Rangitahi Peninsula Zone. I recommend a new Rule 15.7.1 P5 to address this.
- (r) I support the recommendations in the s.42A Report and s.42A Rebuttal Evidence regarding:
- i. Amendments to the mapping of the High Risk Erosion Area for the Rangitahi Peninsula;
 - ii. New Rules 15.7.2 RD2 and 15.8.2 RD2 to classify subdivision in the Coastal Sensitivity Areas as a Restricted Discretionary Activity (including the associated assessment criteria);
 - iii. Changes to Rules 15.9.2 D7 and 15.10.2 D6 so they do not apply to additional lots which are located entirely outside a High Risk Coastal Hazard Area.
- (s) **Attached** to this summary is an update to Annexure 2 of my EiC marking up the agreed changes and new Rule 15.7.1 P5.

⁴ Section 42A Rebuttal Evidence, at Para. [61].

⁵ Section 42A Rebuttal Evidence, at Para. [62].

Dated this 7th day of May 2021

A handwritten signature in blue ink, consisting of a stylized 'B' and 'I' intertwined, with a long horizontal stroke extending to the right.

Ben Inger

Updated Changes to Annexure 2 of Inger EIC

Changes which are recommended in the Inger EIC and in the s.42A Rebuttal Evidence which are agreed with by Ben Inger (for Submitter #343 Rangitahi Ltd) are shown in green text.

Changes which are recommended in the Inger EIC but are not agreed with in the s.42A Rebuttal Evidence are shown in red text.

15.7 Coastal Sensitivity Area (Erosion) and Coastal Sensitivity Area (Open Coast)

15.7.1 Permitted Activities

Activity		Activity-specific conditions
P5	Construction of a new building or additions to existing buildings in the Rangitahi Peninsula Zone on a certificate of title which was created by subdivision consent granted prior to [date this rule becomes operative]	<ol style="list-style-type: none">1. Compliance with the requirements of any consent notice for the certificate of title pursuant to s221 RMA containing specific design or location requirements for buildings.

15.7.2 Restricted Discretionary Activities

Activity		Matters of Discretion
RDI	Construction of a new building or additions to an existing building not provided for in Rule 15.7.1 P1-P3 and P5 and not listed in Rule 15.7.3 D1.	<p>Discretion is restricted to:</p> <ol style="list-style-type: none">1. The ability to manage coastal hazard risk through appropriate building materials, structural or design work, engineering solutions or other appropriate mitigation measures, including the ability to relocate the building;2. The application of mitigation through natural features and buffers where appropriate;3. The ability to impose time limits or triggers to determine when the building and services to be removed or relocated;4. The degree to which coastal hazard risk, including the effects of climate change over a period to 2120, has been assessed in a site specific coastal hazard risk assessment;

		<ol style="list-style-type: none"> 5. Suitability of the site for the proposed use, including the provision for servicing such as access, wastewater, stormwater, and water supply; 6. Adverse effects to people and property and overall vulnerability from the establishment of the new building or additions to an existing building and any mitigation measures to reduce risk; 7. Whether there is any suitable alternative location for the activity to locate within the site; 8. Coastal Sensitivity Area (Open Coast) only - the setting of minimum floor levels in areas subject to inundation.
RD2	<p>(1) <u>Subdivision to create any additional vacant lots where the additional vacant lot(s) are located partially or entirely within the Coastal Sensitivity Area (Erosion) or the Coastal Sensitivity Area (Open Coast).</u></p> <p>(2) <u>Rule 15.7.2 RD2(1) does not apply to subdivision for a utility allotment, access allotment or subdivision creating a reserve allotment.</u></p>	<p>Discretion is restricted to:</p> <ol style="list-style-type: none"> 1. <u>Whether the vacant lot(s) are capable of containing a complying building platform entirely outside the Coastal Sensitivity Area (Erosion) or the Coastal Sensitivity Area (Open Coast); or</u> 2. <u>Where the vacant lot(s) are not capable of containing a complying building platform entirely outside of the Coastal Sensitivity Area (Erosion) or the Coastal Sensitivity Area (Open Coast):</u> <ol style="list-style-type: none"> (i) <u>The degree to which coastal hazard risk, including the effects of climate change over a period to 2120, has been assessed in a site specific coastal hazard risk assessment;</u> (ii) <u>Suitability of the vacant lot for the likely future uses, including the provision for servicing such as access, wastewater, stormwater, and water supply;</u> (iii) <u>The degree to which alternative subdivision layout(s) have been investigated to avoid or mitigate coastal hazards;</u> (iv) <u>Adverse effects to people, property and the environment and overall vulnerability from the likely future uses, including any mitigation measures to reduce risk;</u> (v) <u>Coastal Sensitivity Area (Open Coast) only - the setting of minimum floor levels in areas subject to inundation.</u>

15.7.3 Discretionary Activities

D2	Subdivision to create one or more additional vacant lot(s) other than a utility allotment, access allotment or subdivision creating a reserve allotment.
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15.8 Coastal Sensitivity Area (Inundation)

15.8.2 Restricted Discretionary Activities

<u>RD2</u>	<p>(1) <u>Subdivision to create any additional vacant lots where the additional vacant lot(s) are located partially or entirely within the Coastal Sensitivity Area (Inundation).</u></p> <p>(2) <u>Rule 15.8.2 RD2(1) does not apply to subdivision for a utility allotment, access allotment or subdivision creating a reserve allotment.</u></p>	<p>Discretion is restricted to:</p> <ol style="list-style-type: none"> 1. <u>Whether the vacant lot(s) are capable of containing a complying building platform entirely outside the Coastal Sensitivity Area (Inundation); or</u> 2. <u>Where the vacant lot(s) are not capable of containing a complying building platform entirely outside of the Coastal Sensitivity Area (Inundation):</u> <ol style="list-style-type: none"> (i) <u>The degree to which coastal hazard risk, including the effects of climate change over a period to 2120, has been assessed in a site specific coastal hazard risk assessment;</u> (ii) <u>Suitability of the vacant lot for the likely future uses, including the provision for servicing such as access, wastewater, stormwater, and water supply;</u> (iii) <u>The degree to which alternative subdivision layout(s) have been investigated to avoid or mitigate coastal hazards;</u> (iv) <u>Adverse effects to people, property and the environment and overall vulnerability from the likely future uses, including any mitigation measures to reduce risk;</u> (v) <u>The setting of minimum floor levels in areas subject to inundation.</u>
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15.8.3 Discretionary Activities

<u>D2</u>	<u>Subdivision to create one or more additional vacant lot(s) other than a utility allotment, access allotment or subdivision creating a reserve allotment.</u>
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15.9 High Risk Hazard (Erosion) Area

15.9.2 Discretionary Activities

D7	<p>(1) Any subdivision which creates one or more additional vacant lot(s) where:</p> <ol style="list-style-type: none"> (a) The additional vacant lot(s) are located entirely outside the High Risk Hazard (Erosion) Area; or (a) The additional lot(s) are partially within the High Risk Hazard (Erosion) Area and each additional lot(s) contains a net site area capable of containing a complying building platform entirely outside the High Risk Hazard (Erosion) Area. <p>(2) Rule 15.9.2 D7(1) does not apply to subdivision for a utility allotment, access allotment or subdivision to create a reserve allotment.</p>
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15.10 High Risk Coastal Hazard (Inundation) Area

15.10.2 Discretionary Activities

D6	<p>(1) Any subdivision which creates one or more additional vacant lot(s) where:</p> <ul style="list-style-type: none"> (a) The additional vacant lot(s) are located entirely outside the High Risk Hazard (Inundation) Area; or (a) The additional lot(s) are partially within the High Risk Hazard (Inundation) Area and each additional lot(s) contains a net site area capable of containing a complying building platform entirely outside the High Risk Hazard (Inundation) Area. <p>(2) Rule 15.9.2 D7(1) does not apply to subdivision for a utility allotment, access allotment or subdivision to create a reserve allotment.</p>
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