

**Before the Independent Hearings Panel
At Wellington City Council**

Under

Schedule 1 of the Resource
Management Act 1991

In the matter of

Hearing submissions and further
submissions on the Proposed
Wellington City District Plan – Hearing
Stream 5

**Statement of supplementary planning evidence of Maggie Cook on behalf of
Wellington City Council**

Date: 25 July 2023

INTRODUCTION:

1 My full name is Margaret (Maggie) Findlay Cook. I am a Senior Planning Advisor in the District Plan Team at Wellington City Council (the Council).

2 I have read the respective evidence of:

Greater Wellington Regional Council ID 351 and FS84

a. Richard Sheild

Woolworths New Zealand Limited ID 359

a. Kay Panther Knight

Kāinga Ora - Homes and Communities ID 391 and FS89

a. Victoria Emily Jane Woodbridge

Retirement Villages Association of New Zealand Incorporated ID 346 and FS128 and Ryman Healthcare Limited ID 350 and FS126

a. Nicola Marie Williams

Stride Investment Management Limited ID 470 and FS107 and Investore Property Limited ID 405 and FS126

a. Janice Carter

Stratum Management ID 249 and FS133

a. Craig Alan Stewart

b. Maciej (Mitch) Wiktor Lewandowski

3 I have prepared this statement of evidence in response to expert evidence submitted by the people listed above to support the submissions and further submissions on the Proposed Wellington City District Plan (the Plan / PDP)

4 Specifically, this statement of evidence relates to the matters of: [Hearing Stream 5 - Section 42A Report - Three Waters](#)

QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT

5 My [section 42A report](#) sets out my qualifications and experience as an expert in planning.

6 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023, as applicable to this Independent Panel hearing.

SCOPE OF EVIDENCE

7 My statement of evidence

- a. Addresses the expert evidence of those listed above; and
- b. Identifies errors and omissions from my s42A report that I wish to address.

RESPONSES TO EXPERT EVIDENCE

Greater Wellington Regional Council ID 351 and FS84 – Richard Sheild

8 I have considered Mr Sheild's suggestion at paragraph 27 of this evidence, that the wording of clause 5 of THW-P1 could be tightened up by replacing the word "reduce" with "minimise". Making this change would mean that water sensitive design methods would have

to be designed, constructed and maintained to reduce wastewater overflows to the smallest possible amount. In my opinion this would result in an overly onerous requirement for new development, particularly as the reasons for wastewater overflows aren't always within a developer's ambit to address. I maintain my opinion (as outlined in paragraphs 171 in my s42A report) that an amendment is not appropriate.

Woolworths New Zealand Limited ID 359 – Kay Panther Knight

9 At paragraph 7 of her statement of evidence, Ms Panther Knight does not agree with my recommendations for THW-O3, THW-P1, THW-R2, THW-R4 and the definition of 'Undeveloped State'.

10 I have considered her suggestion that a permitted activity "could be introduced to encourage and enable water sensitive design". I disagree that this should be in lieu of connecting to networks under pressure. Requiring on-site stormwater management only when there is no infrastructure capacity has the potential to exacerbate existing stormwater issues or cause downstream flooding effects as outlined on page 12 of the [Three Waters Assessment - Growth Catchments Mahi Table and Cost Estimates](#). This assessment was prepared by Wellington Water to support the Wellington Spatial Plan, which then informed development of the Proposed District Plan.

11 At paragraph 11, Ms Panther Knight states that "I disagree that mitigating the increase of impervious area does not achieve improvements in stormwater management". However, in my opinion this is inconsistent with the advice provided by Ms Nitsche at paragraph 12 of her evidence. As Ms Kay Panther did not provide any supporting expert evidence, I recommend retaining THW-O3 and THW-P1 as I have proposed.

12 In relation to Ms Panther Knight's point that "not acknowledging lawfully established impervious area ignores the permitted baseline of

effects relative to runoff¹, it is not clear from Ms Panther Knight's assessment if she means an existing environment argument, in which this is addressed in paragraph 24 of this rebuttal statement. However, if Ms Panther Knight means the 'permitted baseline' I note for THW-R5.2 and THW-R6.2 there is the ability to apply the permitted baseline argument. In accordance with Section 104 of the RMA, it would be the Council who made a decision about whether a permitted baseline argument applied.

Kāinga Ora - Homes and Communities ID 391 and FS89 – Victoria Emily Jane Woodbridge

13 At paragraph 9.1 of her evidence Ms Woodbridge recommends an amendment to policy THW-P4 to split the policy into two, and to allow for development which may be serviced by infrastructure which is unplanned but funded through alternative means:

THW-P4	<p>Three waters infrastructure servicing</p> <p>Subdivision or development in urban areas is serviced by three waters infrastructure that:</p> <ol style="list-style-type: none"> 1. Meets the Wellington Water Regional Standard for Water Services v3.0 December 2021; 2. Has sufficient capacity to accommodate the development; and 3. Is in position prior to the commencement of construction. <p style="color: green;">Limit subdivision and development in urban areas where existing three waters capacity and/or level of</p>
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¹ [Submitter tabled statement - Woolworths NZ \(359\)](#), Page 2, paragraph 11.

	<p>service is insufficient to service further development unless:</p> <ol style="list-style-type: none"> 1. It can be demonstrated there is an alternative solution to avoid or mitigate any adverse effects on the three waters infrastructure network and the health and wellbeing of water bodies and freshwater ecosystems; and 2. The additional demand generated will not necessitate additional unplanned public investment in, or expansion of, the three waters infrastructure network or compromise its ability to service other activities permitted within the zone.
<p><u>THW-PX</u></p>	<p><u>Alternative infrastructure options for urban development</u></p> <p><u>Provide for subdivision and development in urban areas where existing three waters capacity and/or level of service is insufficient if:</u></p> <ol style="list-style-type: none"> <u>1. It can be demonstrated there is an alternative solution to avoid or mitigate any adverse effects on the three waters infrastructure network and the health and wellbeing of water bodies and freshwater ecosystems; and</u> <u>2. The additional demand generated will not necessitate additional unplanned public investment in, or expansion of, the three waters infrastructure network or compromise its ability to service other activities permitted within the zone; or</u> <u>3. The additional capacity and/or level of service can be provided and funded by alternative means or</u>

	<u>through a change to growth sequencing to allow for significant urban development opportunities.</u>
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14 I have considered the proposed amendment and the s32aa evaluation prepared by Ms Woodbridge. I disagree that splitting the policy as proposed is a more effective or efficient means to achieve the objectives. There is no decision-making process under an RMA consenting process for funding or changing growth sequencing of infrastructure, particularly out of sequence Council investment, as these are processes managed by the Local Government Act 2002 under the Long-Term Plan and Annual Plan. Additionally, the use of ‘alternative means of funding’ is ambiguous and will likely lead to more confusion. Therefore, I recommend no change is made.

15 Notwithstanding my opinion that a separate policy is not required, I have also considered Ms Woodbridge’s proposed amendment to THW-P1 (1) and (2) insofar as she proposes changing the framing of the policy from ‘limiting development unless’ to ‘providing for development where infrastructure is insufficient if’. Taking into consideration the objectives of the chapter and the direction of the NPS-UD 2020, I agree with Ms Woodbridge and recommend that THW-P4 is changed as follow:

THW-P4	<p>Three waters infrastructure servicing</p> <p>Subdivision or development in urban areas is serviced by three waters infrastructure that:</p> <ol style="list-style-type: none"> 1. Meets the Wellington Water Regional Standard for Water Services v3.0 December 2021; 2. Has sufficient capacity to accommodate the development; and
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	<p>3. Is in position prior to the commencement of construction.</p> <p>Limit <u>Provide for</u> subdivision and development in urban areas where existing three waters capacity and/or level of service is insufficient to service further development unless <u>if</u>:</p> <p>1. It can be demonstrated there is an alternative solution to avoid or mitigate any adverse effects on the three waters infrastructure network and the health and wellbeing of water bodies and freshwater ecosystems; and</p> <p>2. The additional demand generated will not necessitate additional unplanned public investment in, or expansion of, the three waters infrastructure network or compromise its ability to service other activities permitted within the zone.</p>
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Retirement Villages Association of New Zealand Incorporated ID 346 and FS128 and **Ryman Healthcare Limited** ID 350 and FS126 – Nicola Marie Williams

16 At paragraph 9 of her evidence Ms Williams recommends that Objective THW-O3 is amended as follows:

THW-O3	<p>Hydraulic Neutrality</p> <p>There is no increase in offsite stormwater peak flows and volumes as a result of subdivision, use and development in urban areas <u>unless environmental effects from stormwater can be appropriately managed.</u></p>
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17 Ms Williams considers there is a disconnect between the directive language of Objective THW-O3 and the corresponding Policy THW-P5. Policy THW-P5 provides some flexibility as it requires subdivision and development to sustainably manage the volume and rate of stormwater discharge so that it is reduced “as far as practicable” to be at or below the modelled peak flow and volume for each site in an undeveloped state.

18 Having considered Ms Williams’ evidence, I agree there is a potential inconsistency between THW-O3 and THW-P5. Whilst I do not agree with Ms Williams’ proposed amendments, I recommend that the objective is amended to align THW-O3 and THW-P5 as follows:

THW-O3	Hydraulic Neutrality <u>The There is no increase in offsite stormwater peak flows and volumes as a result of subdivision, use and development in urban areas are reduced to be at or below peak flows and volumes of each site in an undeveloped state.</u>
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19 At paragraph 15 of her evidence Ms Williams also seeks the deletion of Rule THW-R4 (Water Sensitive Urban Design) as she considers that Rule THW-R2, which requires compliance with the stormwater performance standard of the Wellington Water Regional Standard for Water Services, already includes a requirement for water sensitive design, at Section 4.2.10: Water Sensitive Design. Whilst Standard 4.2.10 outlines the recommended guidance for water sensitive design it does not require it. Accordingly, I consider the two provisions do not overlap and I do not recommend any changes.

- 20 I have considered Ms Carter’s suggestion, at paragraph 53 of her evidence, that references to an “undeveloped state” should be replaced with “pre-developed state” to allow use of the “pre developed state” of the site as the baseline to assess stormwater runoff.
- 21 The terminology of ‘undeveloped state’ was used to be consistent with the Proposed RPS. As set out in the evidence provided by Ms Nitsche, from paragraph 13.5, the definition itself is consistent with Wellington Water’s definition of ‘pre-development’ as described at paragraph 4.2.3 of the Wellington Water Reference Guide for Design Storm Hydrology – Standardised Parameters for Hydrological Modelling.
- 22 While I do not recommend any changes in response to Ms Carter’s evidence, I understand the use of different terminology could cause confusion and if the IHP considers it appropriate to align the terminology used by Wellington Water rather than GWRC, my recommendation is to replace ‘undeveloped stated’ with ‘pre-developed state’ but retain the definition itself of ‘means the modelled grassed (pastoral or urban open space) state of the site prior to urban Development.’
- 23 I agree with Ms Carter’s point in paragraph 51 of her evidence that the wording of THW-O3 of ‘no increase’ has the potential to allow for an existing environment argument, however as addressed in paragraph 18 of this rebuttal statement, I have recommended recording THW-O3 to remove the wording ‘no increase’ to be more consistent with the intent of the chapter and THW-P5.
- 24 With regard to paragraph 49 and 50 of Ms Carter’s evidence relating to the use of undeveloped state, in my opinion, clause 3.5(4) of the NPS-FM 2020 direct the Council to achieve positive effects from urban development on the health and wellbeing of receiving environments, as well as avoiding, mitigating or remedying adverse effects. In my opinion, given the state of stormwater infrastructure in Wellington as

outlined in [WCC’s Spatial Plan - Preferred Growth Scenario Three Waters Assessment](#) and [The Mayoral Taskforce on the Three Waters Report](#), our existing infrastructure and state of waterbodies does not meet the requirements set out in the NPS-FM 2020. Therefore, the approach as notified is required to meet this direction.

Stratum Management ID 249 and FS133 – Maciej (Mitch) Wiktor Lewandowski and Craig Alan Stewart

25 Mr Lewandowski has provided evidence on a number of provisions in the Three Waters chapter relating to the definition of undeveloped state, hydraulic neutrality (THW-P1 and THW-R4) and water sensitive urban design (THW-O1, THW-P5, THW-R5 and THW-R6)

Undeveloped State

26 At paragraph 3.9 of his evidence Mr Lewandowski opposes the reference to ‘undeveloped state’ and the removal of the existing environment assessment the definition asserts and he recommends the following amendments:

<p>THW-P5</p>	<p>Hydraulic Neutrality</p> <p>Require new subdivision and development to be designed, constructed and maintained to sustainably manage the volume and rate of discharge of stormwater to the receiving environment so that the rate of offsite stormwater discharge is reduced as far as practicable to be at or below the modelled peak flow volume for each site prior to development occurring in an undeveloped state.</p>
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HYDRAULIC NEUTRALITY

means managing stormwater runoff from subdivision, use and development through either on-site disposal or storage, so that peak stormwater flows and volumes are released from the site at a rate that does not exceed the modelled peak flows and volumes from the site prior to development occurring in an undeveloped state.

- 27 Mr Lewandowski states that his proposed amendments are appropriate and effective in achieving objective THW-O3, and consistent with the established practice of considering the existing environment as sought by Stratum. I consider my assessment in paragraph 23 of my rebuttal evidence addresses the matters raised by Mr Lewandowski. Accordingly, I do not recommend any changes.

Hydraulic Neutrality

- 28 At paragraph 3.30 Mr Lewandowski considers that the Central City Zone (CCZ) should be exempt from the requirements set out in THW-R5 and THW-R6 as site coverage for any given site within this zone is already high, with a large number of sites having total built site coverage, or total impervious coverage.
- 29 I note that Mr Lewandowski has not provided a s32aa evaluation for his recommended amendments. I have considered whether his recommended changes would be more efficient or effective than the notified provisions in achieving the objectives. As shown in the modelling provided by Wellington Water in the [WCC's Spatial Plan - Preferred Growth Scenario Three Waters Assessment](#), the Wellington Central area, which is part of the City Centre Zone, already has existing infrastructure capacity issues. The absence of stormwater treatment contributes to none of the city's water bodies meeting the environmental limits anticipated under the National Policy Statement

for Freshwater Management 2020.² In my opinion and taking in account the supplementary statement of evidence from Mr David Norman, the benefits from requiring hydraulic neutrality for all development across the city including in the CCZ outweigh the costs. Therefore, I do not recommend any changes to THW-R5 and THW-R6.

Water Sensitive Urban Design

30 Mr Lewandowski seeks that THW-R4 is deleted in its entirety or that the rule does not apply to the CCZ (paragraph 3.34). Mr Lewandowski considers that the rule is too uncertain, across all zones, to be approved in its current form as it will result in case-by-case determinations for any non-residential building or development of 4 or more residential units in consultation with Wellington Water. This will add time and cost to any development proposal without the certainty of an end outcome.

31 I agree with Mr Lewandowski that THW-R4 does not have clear baselines and would require site-by-site assessments however I note that this was the intention of the rule framework. The intention of the provisions was to avoid prescribing WSUD solutions to developers based on zones as that does not take into consideration site constraints and would likely cause more contention during the consenting process. The provision framework for WSUD was written in a way to strike the balance between enabling development with acknowledging the current infrastructure limitations and the Council's obligations under the NPS-FM 2020. The intent is to cause a shift in best practice for the consenting process with a greater emphasis put on working collaboratively with Council and Wellington Water in the pre-application process. Therefore, I do not recommend any changes to THW-R4.

² The Mayoral Taskforce on the Three Waters Report, page 14.

Document incorporated by reference

32 In paragraph 3.44 Mr Lewandowski notes that numerous rules reference various Wellington Water standards and Wellington Water can update their documents internally as they are a Council controlled organisation and have their own consultation process. However, as the documents referenced are dated, in order to use the updated version within the District Plan there would need to be a plan change which would require a full consultation process as set out by Schedule 1 of the RMA.

33 Evidence was also provided by Mr Stewart on behalf of Stratum Management in relation to the costs of adopting hydraulic neutrality and water sensitive urban design. The matters raised by Mr Stewart in paragraphs 12 of his evidence are addressed by Mr Norman in his supplementary evidence.

Date: 25 July 2023

Name: Maggie Cook

Position: Senior Planning Advisor

Wellington City Council