BEFORE THE HEARING PANEL
AT ROTORUA

IN THE MATTER	**of the Resource Management Act 1991**
AND	
IN THE MATTER	**of Proposed Plan Change 10 to the Operative Rotorua Lakes Council District Plan**

STATEMENT OF EVIDENCE OF LEZEL BENEKE ON BEHALF OF KĀINGA ORA HOMES AND COMMUNITIES

(PLANNING)

25 SEPTEMBER 2026

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1. EXECUTIVE SUMMARY

1.1 My name is Lezel Beneke. I hold the position of Principal Development Planner within the Housing Delivery Group at Kāinga Ora – Homes and Communities ("**Kāinga Ora**") and am presenting this planning evidence on behalf of Kāinga Ora in support of its primary and further submissions on Rotorua Lakes Council's (**RLC** or the **Council**) proposed Plan Change 10 (**PC10**).

1.2 While Kāinga Ora generally supports the intent of PC10, which is to improve consistency, usability and alignment with the National Planning Standards, Kāinga Ora remains opposed to aspects of the proposed Community Housing provisions and associated objectives. I share this view.

1.3 I acknowledge that the Council's section 42A report has recommended amendments to a number of the provisions that were the subject of concern in the Kāinga Ora primary submission. Those amendments are a considerable improvement on the notified provisions and address a number of the submissions made by Kāinga Ora. However, some residual issues remain which are the focus of my evidence. My evidence addresses each of the Kāinga Ora submission points, outlines the recommendations made in the section 42A report, and identifies whether, in my opinion, the recommended amendments appropriately and sufficiently address the relief sought by Kāinga Ora.

1.4 The key points addressed in my evidence are:

<u>Matters which have been resolved through the s42A recommendations</u>

(a) The definition of Community Housing;

(b) References to 'public safety' within RESZ-07; RESZ-O14; RESZ-O17;

(c) 'Other Residential Activities'; and

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(d) Activity Status of Community Housing and limiting numbers of persons within Community Housing in the Commercial and City Centre Zones.

Matters that remain in contention

d) The proposed assessment criteria for Community Housing.

1.5 I have also addressed the transitional Amendments to Section 104 of the Resource Management Act 1991 (**RMA**), introduced through the recent passing of the Planning Act 2026 which will shortly receive Royal assent, and the implications for the implementation of PC10.

2. INTRODUCTION

2.1 My name is Lezel Beneke. I hold the position of Principal Development Planner within the Housing Delivery Group at Kāinga Ora. I have held roles in the planning profession for the past 18 years and have been involved in advising on issues regarding the RMA and District Plans.

2.2 I have the qualifications and experience set out in my 'Statement of Experience', included as **Attachment A** to this statement. For the past 5 years, I have been employed by Kāinga Ora.

2.3 I am familiar with the national, regional and district planning documents relevant to PC10.

2.4 In preparing this planning evidence, I have read the Section 32 evaluation and supporting technical assessments, and the Section 42A report prepared by Mr Batchelar, Mr Ward and Ms Simmonds on behalf of the Council, dated September 2026.

Code of Conduct

2.5 Although this is a Council hearing, I have read the Environment Court's Code of Conduct contained in the Environment Court Practice Note 2023 and agree to comply with it. Although I am employed by Kāinga Ora, to the extent that I am providing evidence of an expert nature, I have done so objectively and in accordance with the Code. My qualifications as an expert are set out in **Attachment A** to this

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statement. I confirm that the issues 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 expressed in this evidence.

3. SCOPE OF EVIDENCE

3.1 My evidence generally supports the recommendations of the Council Officers in relation to the submissions made by Kāinga Ora. For completeness, this statement of evidence confirms those matters that were raised within the primary submission of Kāinga Ora and which I consider have been adequately addressed by the s42A report, and also addresses those matters where I consider amendments are necessary in order to better align with the purpose of the RMA and the transitional provisions. I have structured this statement as follows:

(a) Matters which have been resolved through the s42A recommendations, being;

(i) The definition of Community Housing;

(ii) References to 'public safety' within RESZ-07; RESZ-O14; RESZ-O17;

(iii) 'Other Residential Activities'; and

(iv) Activity Status of Community Housing and limiting numbers of persons within Community Housing in the Commercial and City Centre Zones.

(b) Matters that remain in contention, being;

(i) The proposed assessment criteria for Community Housing.

(c) Transitional Amendments to Section 104 of the RMA.

4. OVERVIEW OF THE KĀINGA ORA SUBMISSIONS

4.1 In brief, the Kāinga Ora submissions raise concerns that several notified provisions move beyond assessing environmental effects under the

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RMA and instead focussed on the characteristics, legal status, behaviour, support needs, and management of occupants. In particular, the submissions oppose the notified Community Housing definition, the inclusion of "public safety" in residential objectives, and assessment criteria relating to behavioural effects, over-concentration and resident management.

5. MATTERS WHICH HAVE BEEN RESOLVED THROUGH THE S42A RECOMMENDATIONS

Community Housing Definition

5.1 The Kāinga Ora primary submission opposes the notified definition insofar as it excludes facilities where residents are subject to legal orders restricting their freedom of movement, including home detention, probation-related accommodation, and other custodial arrangements.

5.2 The basis for the opposition[1] from Kāinga Ora is that the exclusion draws a distinction based on the legal status of occupants rather than the environmental effects arising from the activity. Individuals subject to community-based sentences or legal orders reside within community housing without generating materially different adverse effects from other residents receiving housing or support services. Accordingly, planning controls should remain effects-based and avoid distinctions that are not directly related to land use effects.

5.3 I agree with the general thrust of the Kāinga Ora submission. Resource management plans should regulate activities on the basis of their actual or potential effects on the environment rather than the personal characteristics or legal status of occupants. In my opinion, the notified wording is of concern and risks creating an artificial planning distinction that is not clearly linked to differences in environmental effects.

5.4 The section 42A report, however, has recommended a substantially revised definition. The recommended definition describes Community Housing as:

[1] Section 5 and 6, page 2 of the Kāinga Ora primary submission, dated 23 March 2026

"A single place of residence on a site where the primary purpose of the activity is the specialised care or support services to meet the social or physical needs of residents, and where residential accommodation is secondary to that care or support purpose. This definition excludes any type of prison as defined under the Corrections Act 2004."[2]

5.5 In my opinion, the recommended definition addresses the concerns raised by Kāinga Ora. Rather than excluding particular categories of residents based on their legal circumstances, the definition now focuses on the nature and purpose of the activity itself. The emphasis is appropriately placed on the provision of specialised care or support services and the relationship between those services and the residential component of the activity.

5.6 I consider the specific exclusion of prisons to be appropriate from a planning perspective. A prison is a distinct land use activity with operational characteristics, scale, security requirements, and environmental effects that are fundamentally different from community housing.

5.7 In my opinion, the revised definition better aligns with the effects based framework of the RMA. It provides greater clarity regarding the intended scope of Community Housing while avoiding unnecessary and potentially unreasonable distinctions between different groups of residents who may require support or accommodation within the community.

5.8 For these reasons, I consider that the amendments recommended in the section 42A report satisfactorily address my concerns and those raised in the Kāinga Ora primary submission. Subject to the recommended wording being retained, I do not consider any further amendments to the definition to be necessary.

<u>References to ‘public safety’ within RESZ-07; RESZ-O14; RESZ-O17</u>

5.9 The Kāinga Ora primary submission opposes the proposed inclusion of the term "public safety" within Objectives RESZ-O7, RESZ-O14 and

[2] Section 3.4.3 of the s42A report, dated September 2026

RESZ-O17 as notified within PC10. The submission[3] identifies that public safety concerns relating to individuals residing in community housing are not matters appropriately addressed through the District Plan and that the proposed approach risks shifting the focus away from the effects based framework of the RMA.

5.10 I agree with that position. While section 5 of the RMA refers to enabling people and communities to provide for their wellbeing and for their "health and safety", this has traditionally been interpreted in the context of resource management outcomes and the effects arising from the use and development of land and physical resources. In my opinion, there is an important distinction between health and safety effects that arise from an activity or environmental hazard[4], and broader notions of public safety that may relate to the perceived behaviour, characteristics, or legal status of particular individuals.

5.11 The latter are generally matters addressed through the criminal justice system, social service agencies, and other regulatory frameworks rather than through district plan provisions. In my opinion, the proposed inclusion of "public safety" within these objectives runs the risk that decision-makers will take account of matters unrelated to the environmental effects of an activity and therefore matters which are not relevant considerations under the RMA.

5.12 The section 42A report has recommended deleting the references to "public safety" from Objectives RESZ-O7, RESZ-O14 and RESZ-O17. I support that recommendation. In my opinion, the deletion appropriately ensures the objectives remain focused on resource management outcomes and the environmental effects of land use and development.

<u>'Other Residential Activities'</u>

5.13 The Kāinga Ora primary submission opposes proposed Rule RESZ-R8A[5] on the basis that the broad catch-all provision could capture

[3] Section 7, page 8 of the Kāinga Ora primary submission, dated 23 March 2026
[4] Or examples referenced within section 3.6.2.4 of the s42A report "*traffic safety, site design, noise, hazardous activities or the interface between incompatible land uses."*
[5] Submission Point 8, Table 1 of the Kāinga Ora primary submission, dated 23 March 2026

activities that are residential in nature and should be anticipated within the Residential Zone.

5.14 I share that concern. Residential zones should provide for a range of housing types and living arrangements, with planning controls focused on the effects of an activity rather than the particular arrangements adopted by residents.

5.15 I support the section 42A report's recommendation to replace the broad "Other Residential Activities" rule with a more specific framework for Shared Residential Accommodation. This provides greater certainty and largely addresses the primary concern raised by Kāinga Ora.

5.16 However, I have some reservations regarding the proposed definition. In my opinion, a living arrangement where occupants have separate bedrooms and share kitchen, bathroom, dining, or living facilities could also describe many ordinary flatting or shared household situations that are commonly anticipated within residential areas.

5.17 I am also not persuaded that small-scale boarding houses, student accommodation, co-living arrangements, or similar shared housing accommodating up to eight people generate materially different environmental effects from other forms of residential occupation. The sharing of facilities does not, in itself, result in different effects in terms of traffic, noise, built form, or residential amenity.

5.18 Notwithstanding these concerns, I consider that the section 42A recommendations represent a significant improvement on the notified provisions. While the proposed definition could be refined to better distinguish shared accommodation from ordinary household living arrangements, I consider the remaining issues are matters of drafting and planning principle rather than substantive planning outcomes.

5.19 Overall, I consider the section 42A recommendations largely address the concerns raised in the Kāinga Ora submission and I do not oppose the recommended approach.

<u>Activity Status of Community Housing and limiting numbers of persons within Community Housing in the Commercial and City Centre Zones</u>

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5.20 The Kāinga Ora primary submission seeks that Community Housing accommodating more than eight persons be provided for as a restricted discretionary activity rather than a discretionary activity. The Kāinga Ora primary submission states that any potential adverse effects associated with larger scale community housing can be appropriately managed through identified matters of discretion, while recognising that community housing remains an inherently residential activity.

5.21 The Kāinga Ora submission also opposes the notified limits on the number of residents within Community Housing in the Commercial and City Centre Zones. In its submission, Kāinga Ora identifies that these zones are well suited to accommodating larger numbers of residents, given their scale, character and proximity to services, amenities and public transport. Further, the effects arising from community housing are often comparable to those generated by other residential and accommodation activities anticipated within these zones.

5.22 I agree with the Kāinga Ora position. In my opinion, the scale-related effects of larger community housing activities, such as traffic and amenity, can be effectively assessed through a restricted discretionary activity framework. The relevant bulk, location and design standards within the Plan also provide an important layer of control over the form and scale of development.

5.23 The section 42A report has recommended that Community Housing accommodating more than eight persons be provided for as a restricted discretionary activity. I support that recommendation. In my opinion, it appropriately balances the need to assess potential effects while avoiding unnecessary barriers to the provision of community housing.

5.24 While the section 42A report retains the eight person threshold within the Commercial and City Centre Zones, it also provides a restricted discretionary pathway for larger activities. On balance, I am satisfied that this addresses the concerns raised by Kāinga Ora, as it enables larger scale community housing to be considered on its merits while ensuring any relevant effects can be appropriately assessed.

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5.25 Accordingly, I consider the recommendations in the section 42A report substantially achieve the outcome sought by Kāinga Ora and I support the proposed amendments.

6. MATTERS THAT REMAIN IN CONTENTION

Community Housing Assessment Criteria

6.1 The Kāinga Ora primary submission supports the use of the existing general assessment criteria in RESZ-AC1 for Community Housing accommodating more than eight persons. The Kāinga Ora submission considers that RESZ-AC1 already provides an appropriate and comprehensive framework for assessing the effects of larger scale residential activities and that no additional Community Housing-specific assessment criteria are required.

6.2 While I support the section 42A recommendation to provide for Community Housing accommodating more than eight persons as a restricted discretionary activity, I do not support the introduction of the additional assessment matter in RESZ-MD4, nor the equivalent provisions in COMZ-MD7, CCZ-MD4 and RURZ-MD5.

6.3 The section 42A report recommends the following assessment criteria provision:

"The extent to which the location and interface of the activity with nearby sensitive activities or places may give rise to adverse effects, having regard to matters such as site layout, access, lighting, fencing, security measures, supervision arrangements and other operational characteristics of the Community Housing activity."

6.4 In my view, this provision introduces matters that are either unclear or are not appropriately directed towards the assessment of environmental effects. For example, the reference to "nearby sensitive activities or places" is ambiguous and creates uncertainty as to what activities or places are intended to be captured. Similarly, references to fencing duplicate matters that are already addressed through the District Plan's built form standards.

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6.5 I am also concerned by the inclusion of reference to "security measures", "supervision arrangements" and "other operational characteristics". These matters are directed towards the management of residents and the operation of the activity, rather than the environmental effects arising from the use of land. In my opinion, they move beyond the effects based focus of the RMA and risk introducing considerations that are not relevant to a resource management assessment.

6.6 Most importantly, I am not persuaded that Community Housing requires its own bespoke assessment criteria. The Kāinga Ora submission identifies RESZ-AC1 as providing sufficient assessment criteria to assess the effects of Community Housing accommodating more than eight persons. I agree with that position. The existing criteria already provide Council with the ability to assess matters such as amenity, design, layout, access, servicing and compatibility with the surrounding environment. I have not seen any evidence demonstrating that Community Housing generates effects that require a separate assessment framework.

6.7 Further, RESZ-MDB, as recommended by the section 42A report as an applicable matter of discretion, already provides an appropriate framework for assessing and managing any adverse effects associated with larger scale residential activities. In my opinion, these existing assessment criteria adequately address effects that may arise from the increased scale and intensity of residential development, including Community Housing, without the need for additional activity specific matters of discretion.

6.8 Accordingly, I recommend that RESZ-MD4 be deleted. For the same reasons, I recommend deletion of COMZ-MD7, CCZ-MD4 and RURZ-MD5. In my opinion, the existing assessment criteria within RESZ-AC1 and RESZ-MDB, together with the other relevant matters of discretion listed in the s42A report, provide a sufficiently robust framework for assessing Community Housing accommodating more than eight persons.

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7. PLANNING REFORMS – TRANSITIONAL AMENDMENTS TO S104 OF THE RMA

7.1 Since Kāinga Ora lodged its submission, amendments have been made to section 104 of the RMA as part of the Government's resource management reforms. Once Royal Assent is received and the relevant transitional provisions come into force, new section 104(1A) will require consent authorities to disregard certain matters, including matters relating to the type of people who may occupy a development and other considerations that are not directly related to environmental effects.

7.2 I understand that Royal Assent is expected to be received before decisions are issued on PC10. In my opinion, the amendments signal a clear legislative direction with greater emphasis on the environmental effects of land use and development, rather than the characteristics or management of occupants.

7.3 These amendments are particularly relevant to the proposed Community Housing specific matters of discretion, which include references to security measures, supervision arrangements and other operational characteristics. As explained above, it is my opinion that such matters focus on the management of occupants rather than the environmental effects arising from the use of land and are inconsistent with the direction signalled by section 104(1A).

7.4 Accordingly, it is my opinion that the existing (operative) assessment framework within RESZ-AC1 and RESZ-MDB remains the more appropriate approach. It is noted that some matters within those provisions may also require review in light of section 104(1A).

8. CONCLUSION

8.1 In my opinion, the amendments recommended through the section 42A report, together with the additional changes I have recommended, will result in a clearer and more effects based planning framework that better aligns with the purpose and principles of the RMA by focusing on the environmental effects of activities, providing greater certainty for plan users, and appropriately enabling a range of residential activities and housing choices. This approach is also more consistent with the

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direction of the recent amendments to section 104, including section 104(1A).

Lezel Beneke
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ATTACHMENT A: STATEMENT OF EXPERIENCE – LEZEL BENEKE

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Lezel Beneke:

I hold the position of Principal Development Planner within the Housing Delivery Group at Kāinga Ora.

I am a Full Member of the New Zealand Planning Institute. I hold a Bachelors Degree with honours in Planning from the University of Auckland. I have held roles in the planning profession for the past 18 years and have been involved in advising on issues regarding the Resource Management Act 1991 ("**RMA**") and District Plans.

My experience includes working within local authorities, private consultancy and as a sole trader. For the past 5 years I have been employed by Kāinga Ora (formerly Housing New Zealand).

I have been providing development planning expertise within Kāinga Ora since 2021. In this role I have:

(a) Undertaken assessment and identification of redevelopment land within the portfolio, including hazard assessments;

(b) Provided input into strategic land planning, including the Asset Management Strategy, various investment and land use frameworks, and various structure plan processes of Kāinga Ora;

(c) Provided advice on the regulatory planning processes associated with Kāinga Ora residential development projects;

(d) Undertaken engagement with local authorities, local communities and other agencies on matters relating to regulatory policy frameworks associated with residential development;

(e) Provided advice on, and management of, input into strategic planning activities including plan changes and plan review processes throughout the country, including more recently, technical lead and project management of Kāinga Ora submissions and corporate evidence relating to the National Policy Statement on Urban Development 2020 ("NPS-UD"), including input on plan changes addressing natural hazards across the country.

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