

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

**IN THE MATTER OF**

The Resource Management Act 1991 (**RMA** or  
**the Act**)

**AND**

**IN THE MATTER OF**

Hearing of Submissions and Further  
Submissions on the Proposed Timaru District  
Plan (**PTDP** or **the Proposed Plan**)

**AND**

**IN THE MATTER OF**

Submissions and Further Submissions on the  
Proposed Timaru District Plan by **Waipopo  
Huts Trust**

---

**EVIDENCE OF ROBERT KERR  
ON BEHALF OF WAIPOPO HUTS TRUST REGARDING HEARING (F) HAZARDS  
AND RISKS**

Dated: 9 April 2025

---

---

Presented for filing by:  
Shona Walter  
**Saunders & Co**  
PO Box 18, Christchurch  
Telephone: 022 400 6676  
Email: shona.walter@saunders.co.nz

## INTRODUCTION

- 1 My name is Robert Thomas Pyne Kerr.
- 2 I hold a Bachelor of Engineering, with Honours, and am a Chartered Professional Engineer. I have over 30 years' experience in the field of infrastructure engineering and have particular experience in flood and stormwater management.
- 3 I am the director of Kerr and Partners Limited.
- 4 My role in relation to the Timaru Proposed District Plan (**Proposed Plan**) is as an independent expert witness to Waipopo Huts Trust (**Waipopo Trust / Trust**) on matters relating to flood hazard on the Waipopo Huts Trust Land (**Waipopo Land / site**).
- 5 In preparation of this evidence, I have reviewed the Section 42A Officer's Report (**s42A Report**). The s42A Report broadly agrees with the Trust's submission, that the natural hazards provisions in the Proposed Plan needed amending to recognise the special status of the Waipopo Land. I agree with this approach and discuss this further in my evidence below.
- 6 Although this is not an Environment Court proceeding, I have read the Environment Court's Code of Conduct and agree to comply with it. My qualifications as an expert are set out above. The matters addressed in my evidence are within my area of expertise, however where I make statements on issues that are not in my area of expertise, I will state whose evidence I have relied upon. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in my evidence.

## SCOPE OF EVIDENCE

- 7 In my evidence I address the following topics:
  - (a) My evidence presented at Hearing E2;
  - (b) Recommendations from the s42A Report;

## SUMMARY OF MY EVIDENCE

- 8 I have considered the proposed amendments proposed by the s42A Report to the Māori Purpose Zone (**MPZ**) in relation to flood hazard, and specifically, provision for both permitted activity and restricted discretionary activity status when building in a high hazard area.
- 9 I consider that the proposed approach is both pragmatic and appropriate given the balance between the flood hazard on the Waipopo Land and the ability to mitigate that hazard with the underlying purpose of the MPZ and the matters raised by the history of Kemps Deed and duties in relation to Te Tiriti.

## EVIDENCE PRESENTED AT HEARING E2

- 10 On behalf of Waipopo Trust and their submission on the Māori Purpose Zone Chapter at Hearing E2, I provided the evidence attached at **Appendix A**, which I rely upon in relation to this statement of evidence, in addition to further comments made below.

## SECTION 42 REPORT

- 11 The s42A Report broadly agrees with the Trust's submission to amend provisions in the Proposed Plan which frustrate or impede the use, development and rebuilding of dwellings on the Waipopo Land. The approach I have taken is to only address matters relevant to my area of expertise and provide comment on those matters.
- 12 In review of the s42A Report, I note that Mr Willis states at 7.2.10:

*I consider these sites are already developed and in a zone (MPZ), or recommended to be rezoned (to MPZ) that anticipates residential and other urban activities occurring in it. Accordingly, the MPZ could be considered to be an existing urban area. I note that CRPS Policy 11.3.1 requires an avoidance or mitigation approach to apply to existing urban areas that are also a "high hazard area". However, in non-urban or rural areas, building in a "high hazard area" is to be avoided. Applying an urban area approach to the MPZ, I recommend that new hazard sensitive activities are provided for as permitted activities in the MPZ where subject to flooding, including in high*

*hazard areas, if the required floor levels are met. If they are not met, the development would become RDIS (as opposed to NC in the notified PDP).*

- 13 I am comfortable with the pragmatic approach set out by Mr Willis. Acknowledging that this area has been occupied from well before the current planning regimes and that the site is at risk of significant flooding in infrequent events, a minimum floor level for new development is an appropriate measure to mitigate the impacts of any flooding.

- 14 In section 7.2.13, Mr Willis also notes that:

*... to be permitted the upgrade or replaced dwellings, and any new dwellings on vacant sites, would need to meet the minimum finished floor level provided within a Flood Assessment Certificate. If they did not meet this minimum floor level then an RDIS activity pathway would be triggered. In my opinion this is the minimum necessary given the flooding profile of these sites, and noting that existing use rights would still apply...*

- 15 I agree with Mr Willis' recommended approach, where any new dwellings are a permitted activity if built to a minimum floor level. Referring to NH-S1 and section 7.36.12 of Mr Willis' report, I understand the minimum floor level is proposed to be 0.5% AEP rainfall event plus 300mm freeboard.

- 16 Mr Willis' suggestion at section 7.2.16 to '*amend NH-R4 to enable development within a High Hazard area to be RDIS if located within an urban zoned area*' follows from the above considerations.

- 17 The matters of discretion referred to in the above paragraph are set out below, together with my comments:

	<b>Matter of discretion</b>	<b>My Comment</b>
1	<i>any potential adverse effects of diverting or blocking overland flow path(s), including upstream and downstream flood risks; and</i>	Agree. This is appropriate to consider effects on others and any rebuilds would not be causing a obstruction causing the water level to rise on other properties.
2	<i>any increased flood risk for people, property, or public spaces; and</i>	Agree. Noting that this relates to the proposal creating an <u>increased</u> risk rather than the existing flood risk.

	<b>Matter of discretion</b>	<b>My Comment</b>
3	<i>the effectiveness and potential adverse effects of any proposed mitigation measures; and</i>	Agree. While the most common mitigation for properties in the Waipopo Huts is raising the floor level, where it is not practical to raise the floor above the 0.5% AEP water level, then consideration of a combination of floor height, evaluation measures, temporary barriers, structural form, vulnerability to damage and other matters such as frequency of use could be considered.
4	<i>any operational need or functional need for the activity to be established in this location; and</i>	No comment.
5	<i>the extent to which it will require new or upgraded public natural hazard mitigation works; and</i>	For the Waipopo Huts, this is unlikely to be relevant, albeit that strengthening of the existing stopbank to reduce the likelihood of a breach at this specific location is a theoretical option.
6	<i>the extent of any additional reliance on emergency services; and</i>	Agree. For Waipopo Huts, the existing settlement means then would be no additional reliance on emergency services in an event.
7	<i>any positive effects of the proposal; and</i>	Agree.
8	<i>for development within the Māori Purpose Zone, the extent to which meeting the requirements of the rule compromises the purpose for which the MPZ was created and the anticipated activities within the zone, and the views of mana whenua, if provided</i>	Agree.

## CONCLUSION

18 In summary:

- 18.1 I agree with the s42A Report Officer's approach to applying a mitigation approach as these areas are already developed and recommended to be rezoned to MPZ.
- 18.2 I support the approach that new houses that meet minimum floor level requirements are classed as permitted activities.
- 18.3 The range of restricted discretionary matters should a new house not meet a minimum flood level is appropriate and provide a basis for

considering alternative approaches that balance the purpose of the MPZ with the prudent management of risk.

19 Thank you for the opportunity to present my evidence.

**Robert Kerr**

9 April 2025