



21 October 2021

Environmental Protection Authority  
Private Bag 63002  
Wellington

Attention: Gen Hewett

By email: [gen.hewett@epa.govt.nz](mailto:gen.hewett@epa.govt.nz)

Dear Gen

**Papakura to Drury South State Highway 1 Improvements – Waka Kotahi response to comments from The Park Homes Limited**

1. In Minute 6, issued on 19 October 2021, the Panel sought a response from Waka Kotahi to comments by The Park Homes Limited (TPHL) in respect of the application lodged by Waka Kotahi NZ Transport Agency (Waka Kotahi) for Stage 1B1 of the NZUP SH1 Papakura to Drury Project (the Project).
2. This response addresses the following specific matters raised in the TPHL memorandum:
  - a. Background explanation for late comment
  - b. The extent of the designation boundary sought on TPHL land
  - c. Discussions between the parties
  - d. Relief sought by TPHL, in particular, amendments to the designation boundary and the proposed condition.

*Background*

3. In terms of the TPHL comments on the basis of what they describe as a misunderstanding, Waka Kotahi can confirm that the project information provided to TPHL has been consistent both prior to and following lodgement of the application, and that the extent and location of the Notice of Requirement (NoR) has not changed.
4. As can be seen in the emails on pages 18 and 19 of the TPHL comments, PDF plans of the proposed designation extents and preliminary design drawings were provided by Waka Kotahi in March 2021. The plans attached to that email are contained at **Appendix A**. The approved Land Requirement Plan issued to TPHL on 21 July 2021, which has an almost identical<sup>1</sup> boundary to that of the lodged NoR and earlier drawings, is contained at **Appendix B**. The information TPHL refer to from April 2021 was a 3D drawing provided by Waka Kotahi to show the extent of the physical works and ground levels, but it did not show the property boundaries, nor an NoR boundary. Waka Kotahi did not anticipate, nor intend, for this 3D drawing to be relied upon by TPHL as reflecting the NoR boundary, particularly as numerous plans had already been provided to TPHL showing the NoR boundary in relation to TPHL's property boundary.

---

<sup>1</sup> The final plan is 3,058m<sup>2</sup> which is 1m<sup>2</sup> greater than in the email and plans from March 2021. The difference in area is due to rounding.

### *Extent of designation boundary*

5. Waka Kotahi has no desire to designate any more land than is reasonably necessary for the Project. In this case, TPHL's land has been zoned for development since 2016 but has remained undeveloped. In greenfield circumstances such as this, it is common practice to allow a minimal margin of tolerance in a designation boundary due to the level of design undertaken, and to allow flexibility for both the Project and the land development to proceed.
6. Detailed design of a project such as this is not normally undertaken until after consents have been secured and designations confirmed. This level of design would occur on a project wide basis and is scheduled to take place during 2022, commencing shortly after consents are obtained. Bringing forward detailed design for a single site out of sequence with the Project programme would be both costly and inefficient. It would also be unfair to other landowners and developers adjacent to the Project. If Waka Kotahi was to utilise a designation footprint that exactly matched a proposed preliminary design, there would be a substantial risk that it would later prove to be inadequate and that subsequent alterations would be required. That would be detrimental to the affected landowners.
7. In this situation, where TPHL has yet to obtain consents for its development plans and Waka Kotahi has lodged a NoR that takes interim legal effect, the approach adopted by the Project remains appropriate.

### *Discussions between the parties*

8. As noted in the comments from TPHL, Waka Kotahi engaged with them as soon as the issue was brought to its attention. Waka Kotahi will continue to engage with TPHL, and in the event that they obtain consent for their development before Waka Kotahi commences detailed design, it may be possible to reach a solution that is acceptable to both parties. However, Waka Kotahi has reservations around the level of certainty available at this time in relation to TPHL's plans. This is because their proposal relies on the assumption that the ground levels in this area can and will be altered in a timely manner. This relies on resource consent being obtained in the form and timeframe they currently envisage, and that implementation will immediately follow. Waka Kotahi has no control over this process nor has any guarantee that consents will be granted, or that development will take place as proposed. With respect to TPHL, they cannot guarantee this either.

### *Relief sought by TPHL*

9. TPHL has proposed that the designation be reduced in scale so that it affects less of the TPHL property. For the reasons outlined in point 6 above, this risks further land being required at a later date and is not supported by Waka Kotahi. TPHL has also requested a condition requiring Waka Kotahi to draw back the extent of the designation, conditional on the ground levels being raised by TPHL.
10. The condition proposed by TPHL is not supported by Waka Kotahi, for the following reasons:
  - a. It creates uncertainty for Waka Kotahi in terms of the area of land which will be subject to its designation;
  - b. It would require detailed design to be brought forward for a single landowner while other affected owners of land in the area would not receive this benefit, which raises an issue of fairness;
  - c. It would have an adverse impact on the property acquisition process under the Public Works Act 1981 (PWA). Compensation is required to be assessed on a defined required land area footprint. In respect of the TPHL land, compensation has already been assessed by the Crown valuer based on the approved Land Requirement Plan which aligns with the proposed designation boundary. A compensation offer under the provisions of the PWA has recently been made to TPHL. As part of its standard process of land acquisition for its projects, Waka Kotahi intends to serve a PWA section 18 notice on TPHL imminently. In summary, while the certainty provided by concluding the land

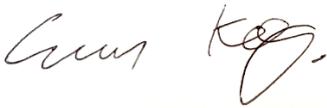
acquisition process should assist TPHL, the condition proposed would prevent that process from being concluded because it would introduce uncertainty over the extent of the designation on which it is based on.

- d. The timeframe provided in the proposed condition for the ground levels to be lifted to the necessary levels is some time in the future (December 2022), which would not give Waka Kotahi certainty as to the works it needs to undertake in that area until this time. If this condition resulted in an altered designation boundary during or after the detailed design process it would require design changes and have associated cost and efficiency impacts.
- e. No environmental effects have been identified by TPHL which would properly be the subject of conditions. The PWA process is already underway and is the appropriate mechanism to consider land acquisition related issues and TPHL can engage with Waka Kotahi through that process.

11. Waka Kotahi would like to work with this developer to seek a mutually agreeable solution outside of the consenting process and does not support any conditions to address this issue. Waka Kotahi has demonstrated in the application before the Panel that the designation boundary for the project is reasonably necessary and appropriate.

12. Please let us know if you have any queries regarding this letter.

Yours sincerely



**Evan Keating**

Principal Planner, Environmental Planning

**Appendix A:** Plans supplied to TPHL in March 2021

**Appendix B:** Approved Land Requirement Plan.