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Environment Committee
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Kia Ora koutou katoa

Selwyn District Council Submission on Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill

1. Selwyn District Council (the Council) thanks the Environment Committee for the opportunity to submit on the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill (the Bill). The Council is supportive of the Government's aims to address New Zealand's housing shortage and enable the delivery of a wider range of housing options, including more affordable homes.
2. The Council supports enabling more intensification to provide enough housing for the growing population. Last year, Selwyn District was the fastest growing district in the country, both in terms of quantum and percentage. The recent Stats NZ Population Estimates (to 30 June 2021) showed Selwyn grew by 3,400 people from 2020 to 2021. This was the largest increase in the country, with Tauranga (3,100 people) close behind. This was also the largest percentage increase in the country. In context, New Zealand grew by a total of 32,400 people.
3. However, Selwyn has concerns with the broad approach and application of these standards, which could lead to some potential unintended outcomes. The Bill has significant impact on council's land-use and infrastructure planning work and the constrained period for submissions limits the Council's ability to engage meaningfully with the community to explain the Bill and receive input on the development of the submission. The Council is also in the midst of District Plan Review hearings as well as dealing with 18 private plan changes which require substantial resourcing and the Bill has significant impact on these processes.
4. The GPS-HUD sets a vision of 'Everyone in Aotearoa New Zealand lives in a home and within a community that meets their needs and aspirations'. The GPS-HUD then explains that this means homes should be of high quality, and places should be accessible, connected, well designed and resilient. These themes shape the discussion within this submission, these are:
 - Alignment with Government Policies, including Geographic Scope;
 - High Quality Homes;
 - Well Designed and Resilient Places;
 - Accessible Places;
 - Connected Places, including Financial Contributions; and
 - Processes, including inter-relationship with District Plan Review and Private Plan Changes, ISSP process, and Local Government Elections.

Alignment with Government Policies

5. The Council is unclear as to how the Bill fits with other government policies, such as the Government Policy Statement on Housing and Urban Development (GPS-HUD) and the National Policy Statement on Urban Development (NPS-UD), especially the NPS-UD goals of well-functioning, well-connected urban environments and to reduce carbon emissions.

The Council seeks further guidance on how local governments give effect and balance these national policy directions and priorities.

6. The National Planning Standards describe residential zones for use in district plans. Section 8 – Zone Framework Standard outlines the residential zones that can be used. The Bill seeks that these standards apply to Low Density, General, Medium Density and High Density Residential Zones but not Large Lot or Settlement Zones. The application of the Medium Density Residential Standards (MDRS) to this range of zones shrinks the distinction between them, as density is a significant driver of a particular zones character and amenity, making them almost redundant. Further, the Low Density description, specifically references ‘one to two storey houses with yards and landscaping’, which is inconsistent with the MDRS.

The Council seeks better integration with the National Planning Standards.

Geographic Scope

7. Council is not certain on Bill’s geographic scope and it potentially enables MDRS development across the entirety of the Tier 1 district and all its townships, rather than a defined urban area.

The Council seeks that the geographic scope of the Bill be clarified to be the urban environment identified by the Council or Councils where Councils work in collaboration. The expectation is that it aligns with the Greater Christchurch Partnership’s boundary (which includes the metropolitan area of Christchurch and the neighbouring towns in Selwyn and Waimakariri).

High-quality homes

8. The Council considers the MDRS, in their current form, may not lead to high-quality homes. The permissive nature of the MDRS impact the ability to provide high-quality homes. Changes to the height in relation to boundary standard, setback standard, outdoor living space standard, additional service area standard, minimum site size, and unit sizes are required to provide for better development. The Council strongly recommends that the standards only apply to multi-unit development rather than standalone development as well. These are discussed below.
9. The MDRS currently limits the available natural light to both indoor and outdoor spaces. The height in relation to boundary standard could be improved so that natural light can still come through. This can be changed so that the proposed height in relation to boundary standard only applies to the front half of any section, so it encourages development towards the street front and for the back of the sites to be more open.

The Council seeks changes to the height in relation to boundary standard that will encourage development towards the street.

10. A change to the setback standards alongside the height in relation to boundary standard is also needed. The setbacks should reflect their function and the orientation of the sun. A minimum setback of 2m is more appropriate to the north and west where they are better suited for establishing sunny and private outdoor areas; whereas a minimum setback of 1m is more appropriate to the east or south.

The Council seeks changes to the setback standards of 2m to the north and west. These changes will provide better opportunity for sunny outdoor spaces.

11. The Council sees the outdoor living space standard, both ground floor and above, so that it incorporates a minimum number of hours of sunlight of 2 hours at winter solstice.

The Council seeks changes to the outdoor living space standard so that it incorporates sunlight hours.

12. Further, a separate service area of 10m² should be provided as a standard per unit. This could, depending on site design and housing typology, be provided in a communal area where units share a common storage/service space.

The Council seeks to include a standard that stipulates a service area per unit

13. The Council considers that the lack of standards around, for example, site size, Crime Prevention through Urban Design principles, accessibility and universal design features, and sustainable construction methods, will lead to poor quality homes. The Bill is not clear on what other building standards, design standards, built form standards, engineering standards or subdivision standards, can continue to apply following the introduction of the MDRS. Many District Plans include standards (such as regarding earthworks, transport matters (such as design of safe accessways, cycle parking, accessible parking etc.), noise insulation, lighting, landscaping, setbacks from railway lines and main highways, etc.). These standards are important to ensure houses are well-designed, safe, accessible, resilient, and contribute to a well-functioning urban environment. These could follow the Design Guidelines developed this year by Kāinga Ora to provide direction for intensive development that achieves positive outcomes in terms of design and well-being.

The Council seeks clarification of new Schedule 3A, Clause 2 (3) about the extent of other standards could cover and direction as to how these elements can be incorporated in development.

14. The MDRS seek no minimum site sizes, which effectively means the Council cannot enforce a minimum density. This limits the council in its ability to require higher densities and subsequently developers can respond by delivering less. The Bill is not clear about the ability of councils to still require minimum densities in residential zones, with the potential for the MDRS to result in lower density developments, fewer homes provided in some locations, and undermine the whole intent of the Bill.

The Council suggests that requirements around minimum densities are clarified in the Bill and that the Bill allows for minimum densities to be applied.

15. The MDRS states no minimum site sizes, which can lead to the development of very small sites. While these sites can contain a residential unit, they can be difficult to provide adequate servicing. Further, there is no minimum residential unit size or dimension which could lead to small apartments being developed that do not provide for appropriate living standards. The Council wants to see a range of typologies though some standards around what is a minimum site and unit size will help provide a residential unit appropriate for someone to live in.

The Council seeks requirements for minimum sites and minimum residential unit sizes and dimensions to limit the development of unserviceable sites and unliveable homes.

16. The standards that the Bill will require will not control building standalone residential units on small sites. This means that rather than seeing a change in typology we will see more of the same typology but without the appropriate setbacks and outdoor space.

The Council seeks that the extent of the standards are only applied to multi-unit (attached) residential development. This will mean that the standards are effectively 'bonus' development rights when developing the desired typology.

17. The above point highlights another potential concern with the Bill, which is, the changes do not increase sufficient development capacity. The NPS-UD defines sufficient as plan-enabled, infrastructure-ready and feasible and reasonably expected to be realised. Infrastructure capacity is in place for an existing zone framework and density expectation and will not be able to service the level of density anticipated by the MDRS. Current trends in Selwyn also show that any form of intensification (beyond a standalone residential unit) is not occurring and is largely unfeasible. The changes proposed in the Bill will increase the plan-enabled capacity but it will not be infrastructure-ready or feasible and under the NPS-UD cannot be considered as capacity. This creates a cycle of having to provide more capacity but by using the same zone framework that caused the issue in the first place.
18. The enabling of additional plan-enabled capacity does not necessarily mean more affordable housing is built. There are many other issues that affect housing delivery and affordability, including availability of skilled tradespersons and construction professionals, access to finance and a reliable and affordable supply of building materials, as well as the continued use of private developer covenants that will continue to limit development potential and this proposal does not address these issues. There is an increasing trend of the use of covenants that restrict development beyond than what is enabled in a district plan. There is the possibility that this trend will increase more as developers seek to provide certainty within their subdivisions. Further, the potential development enabled by the Bill could lead to increased waste generation from both demolition of existing housing stock and the construction of new housing.
19. In essence, whilst the Bill may appear to reduce one barrier to addressing an immediate housing need, there is a real risk that these other issues will blunt its effectiveness. Worse, the provisions of the Bill coupled with these issues could lower standards and could, over the longer term, lead to the development of communities that negatively affect wellbeing.

The Council seek that the government also focus on improving feasibility and affordability through improvements in building material costs, deconstruction costs, other mechanisms to decrease land value, the extent of private developer covenants, and speculation.

Well designed and resilient places

1. The MDRS do not require the provision of landscaping and increases the demand for public open space while reducing the ability to provide open space that contribute to more attractive streets and neighbourhoods. Trees and green spaces not only provide shelter and shade and help to offset the 'urban heat island' effect but play a vital role in climate change mitigation by absorbing carbon dioxide emissions and contribute significantly to biodiversity. The MDRS will likely lead to a further reduction in tree canopy cover both in private space, through on-site intensification, and the removal of street trees as roads and footpaths may need to be widened to account for increased traffic and off-site parking. This cannot readily be accounted for by planting more trees in parks and reserves and mature trees that are felled to enable intensification cannot easily or quickly be replaced. The loss of tree cover, coupled with more

intense development and lack of design requirements, is likely to exacerbate the effects of climate change and the urban heat island effect as impermeable surfaces more readily absorb heat.

The Council seeks a 20 percent minimum landscaping requirement, with a percentage to be met by trees. We consider that this could be incorporated within the allowed space for pervious surfaces, and should not impact the available building area.

Accessible places

2. The broad application and extent of the MDRS, especially in a Selwyn context, could lead to perverse outcomes. Intensification occurring where it is not served by public transport or close to community infrastructure does not improve the wellbeing of the community. The application across all residential areas will lead to ‘pepper-potting’ development and undermine the urban form and increase the uncertainty of the community as to where and when intensification occurs. This potential ‘pepper-potting’ does not support the provision of public transport, which is a key way of meeting ‘zero-carbon’ goals; nor does it support delivering Mass Rapid Transit by increasing the area where intensification can occur. To support public transport, development should be orientated around existing and planned transit stops and routes. This will help provide for better urban form, improve certainty, and provides better opportunities for council to support the development of intensification.
3. The MDRS is also a significant shift in the scale of development enabled in Selwyn District. As discussed above, this creates uncertainty for the community. There is a potential risk that this uncertainty could lead to increased internal migration, especially within Selwyn District. People currently within the urban environment may seek to move to townships further from Selwyn’s main centres and employment areas, as well as from Christchurch City, to where they are not impacted by these standards. This makes the delivery of intensification and public transport difficult and strains the community fabric and networks that provide for social well-being.

The Council seeks that the extent of the standards are only applied to the areas identified within Policy 3d. This could be walkable catchments from centres, public reserves, and along transit stops.

Connected places

4. The MDRS will require the upgrading of infrastructure to support the potential development enabled, even if development doesn’t occur. This will lead to the over-engineering of infrastructure where infrastructure capacity is required, but then not used. Further, as Selwyn’s population and growth is relatively recent (the population has doubled in the last 15 years), most infrastructure is not near the end of its lifespan but will be required to be upgraded to accommodate the potential development capacity as associated with intensification. The provision of other infrastructure, such as stormwater retention, will need to increase further increasing the cost burden on the Council, and ultimately the community.
5. Other council infrastructure, such as reserves, will require more compensation to purchase additional land to meet potential population density increased. Also, the potential sporadic nature of the intensification enabled makes it harder to plan for reserves. Other community infrastructure, both planned and delivered by council (community centres) and government (schools and hospitals) will face similar issues around planning for potential intensification. The Council will now have to develop a new infrastructure strategy before the plan change is notified in order to be ready to respond to development occurring anywhere. This is further complicated by the ongoing three waters reform.

The Council seeks additional MDRS provisions that intensification is done in a comprehensive manner that provide for reserves or public open spaces.

The Council seeks that government extends the timeframes in order for infrastructure strategies to be redrafted and provide better clarity as to how development should address infrastructure requirements for permitted building activity.

The government should also invest in major infrastructure projects in partnership with councils to enable this permitted development.

Financial contributions

6. The Council is broadly supportive of the provisions in the Bill to collect Financial Contributions from developers to support residential development, but it is unclear how this is to be provided and the timing implications.
7. Theoretically, the first the Council could hear of a planned development would be a building consent application, by which time a developer will likely have already invested significantly in land acquisition and professionals' fees. If the development has not considered infrastructure capacity, it could face significant financial contributions late in the building process. This will lead to additional consequences for potential purchasers who might have bought off the plans for a new development. For this reason financial contributions need to be able to be collected from the date when development is enabled.

The Council seeks that the timing of Financial Contributions provisions aligns with the other aspects of the Bill that will have immediate legal effect from August 2022.

Processes

Overlap with Local Government Elections

8. The timing of when the intensification plan change needs to be notified overlaps with local government elections. This decreases the time for a plan change to be approved by council with decisions not able to be made close to the election and then overlaps with local electioneering.

The Council seeks that the timeframes are delayed to avoid the overlap and resourcing is provided to councils to draft evidence to support the implementation of this government direction.

Private Plan Changes

9. As part of the response to the NPS-UD, the Council has received 18 private plan changes requests to enable around 12,000 additional residential sites/development capacity. These plan changes rely on Policy 8 of the NPS-UD to be processed by the council. These plan changes are at various stages of completion. It is unclear in the Bill what the direction from government is in regards to these plan changes and how the Council should respond. The withdrawal of these plan changes will have unintended consequence of stalling supply of land for residential development in specific cases – an outcome at odds with the intent of the Bill.

The Council suggests that the Bill should be amended so that the withdrawal of plan changes is not required, but rather a process should be enabled that plan changes can be automatically updated to incorporate the MDRS if they are approved.

10. The Bill does not include a definition of the words “not completed” causing uncertainty. The hearing referenced is a hearing into submissions on either a plan review or a plan change hearings

could be completed when the actual in person hearing ends. Alternatively, a hearing might be completed once any right of reply is exercised which could occur after in-person presentations. As well a hearing into submissions could be completed when those hearing the submissions and issue a minute formally closing the hearing. Hearings can be completed in the hearing of submissions, but adjourned to allow for right of reply and or when Commissioners want to reflect on information received before formally completing the hearing.

The Council seeks clarification of what the word “Completed” means is required for certainty.

11. There is ambiguity in reading Part 2, Subpart 2 Schedule 3, New Part 4 New Section 31(2) (b) of the Bill. There is potential that a plan change has not been notified on or before the commencement of this clause and therefore not had a completed hearing by the relevant date but is not caught by this clause?

The Council seeks clarification on what happens to Plan Changes notified after the commencement of the Bill.

12. The wording that a plan change that ‘proposes changes to a relevant residential zone’ is not clear. For example, if the private plan change seeks to only change transportation provisions or subdivision provision of the relevant residential zone is that plan change caught by the clause.

The Council seeks clarification on what is meant by ‘proposes changes to a relevant residential zone’.

13. The wording of the Bill is unclear as to any requirement by council to adopt any private plan change within its intensification plan change.

The Council seeks that the Bill should clarify whether or not it is mandatory for a council to adopt, in terms of RMA Schedule 25, a private plan change that the applicant must withdraw.

Selwyn District Plan Review

14. In addition to the private plan changes, the Council is in the midst of hearings for its Proposed District Plan. The residential framework and chapter has been developed, consulted, and submitted on, incorporating and reflecting the community’s view. The input from the community has required a lot of time and effort, which is commendable especially in these uncertain times. The speed and surprise of the announcement will be demoralising for these communities and this is not recognised in the Bill or supporting information. Further, as the standards are essentially non-negotiable minimums, there seems to be no benefit in seeking submissions relating to them. It is unclear from the drafting of the Bill what elements should be withdrawn including numerous zoning submission requests. The changes in standards could have an impact on the transport and subdivision chapters.
15. Also, there are a number of zoning submission requests in the District Plan Review process that will not meet the 20 February 2022 ‘deadline’ to be heard. These will have to be withdrawn but Council is uncertain under what process these requests may then be considered. Clause 80G of the Bill states “Use the intensification planning instrument for any purpose other than those required to incorporate MDRS into plans and for incorporating other intensification policies into plans and finally for a review of financial contribution provisions.” This seems to imply that the ISPP cannot include new zoning areas. If this is the case then the zoning requests on the District Plan Review process, which have to be withdrawn, have no avenue to be considered. If Council is able to adopt Plan Changes into its ISPP process can it also include zoning requests in the District

Plan Review or even areas of land not subject to a request be appropriate for further urban development?

The Council seeks clarification on what elements can be included within the Intensification Streamlined Planning Process (ISPP), including any new zoning requests, and what is needed to be done through another process.

Independent Hearings Panel (IHP) Scope

16. By not limiting recommendations/decisions of the IHP to the scope of submissions received is a significant change from current RMA hearing processes on proposed plans and planned changes. Limiting matters to the scope of submissions and ensuring that submissions are “On” the plan change avoids a plan review or change being hijacked by submitters for an outcome not contemplated. Also limitations as to scope provide natural justice assurances particularly for participants.

The Council seeks limitations on the scope considered by the IHP to provide natural justice assurances.

Conclusion

17. The purpose of the RMA is to promote the sustainable management of natural and physical resources. This is done in a way that enables people and communities to provide for their well-being. The Council is concerned that the broad-brush approach to enabling intensification will not maximise well-balanced well-being outcomes for present and future generations.

Thank you for the opportunity to provide this submission. For any clarification on points within this submission please contact Selwyn District Council Planning Manager Benjamin Rhodes – Benjamin.rhodes@selwyn.govt.nz.

We are happy to present our submission in a hearing, either in person or via zoom depending on location and timing.

Ngā mihi



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On behalf of the Selwyn District Council