

MEMORANDUM

To: Commissioner David Caldwell

From: Selwyn District Council

Date: 22 December 2021

Subject: Response to Minutes issued on 16 and 17th December in relation to Private Plan Changes 67, 73, 75, 76 and 78

1. This memorandum responds to the Commissioner's minutes dated 16th and 17th December 2021 seeking comment on whether he can, and if so should, reopen the hearings for Private Plan Changes 67, 73, 75, 76 and 78 to enable the parties to provide submissions, or potentially evidence, in light of the enactment of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021, or whether he should continue deliberations on the evidence and submissions currently before him.
2. Council is not aware of any provision within the Resource Management Act that would preclude the Commissioner from re-opening the hearing, should he wish to do so. However, as discussed below, Council does not believe that it is necessary to do so.
3. The Amendment Act requires that Council prepare and notify an Intensification Planning Instrument (IPI), as a variation to its Proposed District Plan (PDP) to incorporate the Medium Density Residential Standards (MDRS) and give effect to the relevant policies of the National Policy Statement on Urban Development (NPS-UD). The IPI applies to *relevant residential zones* which, while defined as all residential zones, does allow for some exceptions. As such, one of the first tasks of Council will be to determine where the IPI is applicable.
4. Council considers that the key section of the Amendment Act that is relevant to the private plan change requests above is section 34 of Schedule 3. This section addresses the status of partly completed proposed plan changes. Unlike the initial bill, the Amendment Act does not require that private plan changes be withdrawn. Rather, for private plan changes that have been notified but not determined before the commencement date of the Amendment Act (being 21 December 2021), it instead requires that Council notify a variation to the private plan change at the same time as it notifies the IPI. Any variation must be processed at the same time as the IPI, but does not merge with the IPI, instead running a separate but parallel process to the IPI.
5. However, the reach of s34(1) is limited to plan changes that are proposing or requesting changes to a *relevant residential zone* (or a new residential zone which is defined in the Amendment Act as an area proposed to become a *relevant residential zone*).
6. Noting the concerns expressed by the Commissioner in his minutes regarding the implications that the Amendment Act may have in relation to housing capacity/demand matters and infrastructure, the

Amendment Act is an enabling piece of legislation; while it will change, by way of the incorporation of the MDRS, the permitted density standards applicable within *relevant residential zones*, it does not require an increase in density. Further, s77I allows Council to consider a range of qualifying matters where, within *relevant residential zones*, there may be areas where the density standards should not be as enabling.

7. As such, there are many matters for Council to consider in light of the commencement of the Amendment Act, the resolution of which will have a subsequent flow on effect to the private plan changes. Accordingly, Council considers that the Commissioner should continue his deliberation on the evidence and submissions before him. Council considers that the Amendment Act provides no work for the Commissioner at this time; rather the work will fall to Council early next year to determine what impact, if any, the Amendment Act will have on the above private plan changes.

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