

BEFORE THE SELWYN DISTRICT COUNCIL

IN THE MATTER OF the Resource Management Act 1991

AND

IN THE MATTER OF Proposed Plan Change 74 being a request by Hughes Development Limited to rezone approximately 20 hectares of current rural land in West Melton to residential land

**MINUTE NO 5 OF COMMISSIONER DAVID CALDWELL
ADDRESSING MEMORANDUM OF COUNSEL DATED 14 APRIL 2023**

Dated 18 April 2023

1. By Memorandum of Counsel dated 14 April 2023, Mr Gordon identified a “restraint” in relation to undertaking of preparatory steps for a reconvened hearing on 15 May 2023.
2. Mr Gordon’s comprehensive Memorandum sets out, in some detail, the information which is sought, and apparent difficulties with obtaining information to enable Mr Colegrave to respond to the updated Selwyn Capacity Growth Model (**SCGM22**).
3. Mr Gordon submitted that unless and until “sufficient information” regarding the recent updates to the SCGM22 is provided, Mr Colegrave is precluded from undertaking any meaningful engagement with Mr Foy’s analysis and providing any effective response to it.
4. Mr Gordon advised that Counsel for various parties had filed a Joint Memorandum with the Hearings Panel in relation to the upcoming Intensification Variation to the Proposed Selwyn District Plan. A copy of that memorandum was provided.
5. As advised by Mr Gordon, the Panel’s response (which again was provided) noted that:
 - (a) Some information concerning the updated SCGM22 had already been made available;
 - (b) The model coding itself is the intellectual property of Formative Limited and will not be available; and
 - (c) In the Panel’s view, the provision of the input data and methodological explanation contained in the Formative report should be sufficient for the submitters’ economic experts to undertake their own assessment of supply and demand.
6. I note that on 31 March 2023, the following documents were uploaded to the Plan Change website:
 - (a) Residential Data – Output of the model [XLSX, 179 KB];
 - (b) Valuation August 2022 – GIS input of the model [ZIP, 6281 KB]; and
 - (c) SCGM22 – 22 March 2023 [PDF, 1244 KB].
7. Mr Gordon advised that Mr Colegrave had reviewed those documents and had concluded they did not include or otherwise address the “vast majority” of the outstanding further information required for him to undertake appropriate interrogation of Mr Foy’s evidence.¹ Mr Gordon also advised that further communications between Mr Colegrave and Mr Foy as recently as 13 April 2023 have been unfruitful. He advised that Mr Foy continues to decline the request to access the model for intellectual property reasons.²
8. Mr Gordon has sought the following directions:

¹ Memorandum of Counsel at para [15]

² Memorandum of Counsel at para [16]

- a) *The Council is directed to disclose the information described in paragraph 9 to HDL by Wednesday 19 April.*
- b) *In the alternative, the Council is directed to disclose the information described in Attachment 5 to HDL by Wednesday 19 April.*
- c) *The hearing for PC74 continues to be adjourned until such time as the above information is disclosed (either (a) or (b)), and Mr Colegrave has had sufficient time to consider that information. At that time, further directions regarding expert conferencing, the exchange of any additional evidence and timing of a reconvened hearing will be sought.*

Analysis

9. I have carefully considered the contents of Mr Gordon's Memorandum, including its various annexures.
10. Given Mr Gordon's references to Mr Foy's Summary of Evidence, I have also read that. I do not make any findings on Mr Foy's opinions expressed but it occurs to me that the matters where there is disagreement are perhaps more discrete than outlined. In terms of Mr Foy's summary, I note that he refers to the recently (mid-February 2023) completed updated demand/supply assessment which Mr Foy says was supplied to Mr Colegrave for assistance in the conferencing process.
11. Mr Foy's summary records Mr Colegrave's identification of a number of matters that indicate the SCGM overstates available capacity and understates demand in West Melton. Mr Foy disagrees with that conclusion of unreliability. Mr Foy maintains that the projections using the SCGM are appropriate, and fact-based, and that the projection for demand in the medium term is robust and appropriate.³
12. In terms of the issue of locality, there appears to be a difference of opinion between Mr Foy and Mr Colegrave as to whether West Melton forms its own housing market. Mr Foy's summary recorded his opinion as being West Melton is part of a locality that takes in at least Prebbleton, even though SDC has proposed to apply the MRZ to Prebbleton in Variation 1.

Directions

13. The issues relating to capacity are obviously of significant importance. They are ones I will ultimately need to make my recommendation on. I have carefully considered the directions sought by Mr Gordon (including the alternative direction). I do not consider that those directions are either necessary or appropriate at this stage. It is not appropriate that I purport to determine any issues of intellectual property.
14. I anticipate that a number of the matters identified can be addressed through expert conferencing, and of course through questioning and exploration at the reconvened hearing.

³ Summary of Evidence at para [16]

15. While no date has been set for the reconvening of PC74 (noting I have indicated the week of 15 May may be appropriate), if the Applicant wishes to seek a continuation of the adjournment, then I am of course prepared to consider that.
16. If there are any issues arising from this Minute, they are to be raised, in writing, through submissions@selwyn.govt.nz.

A handwritten signature in blue ink, appearing to read 'D Caldwell', is written over a horizontal line.

David Caldwell

Hearing Commissioner

Dated: 18 April 2023