

**BEFORE THE HEARING COMMISSIONER
FOR SELWYN DISTRICT COUNCIL**

UNDER

the Resource
Management Act 1991

IN THE MATTER

of Private Plan
Changes 67, 69 and
73 (West Rolleston)

**MEMORANDUM OF COUNSEL FOR CHRISTCHURCH CITY COUNCIL AND
CANTERBURY REGIONAL COUNCIL**

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MAY IT PLEASE THE COMMISSIONER

1. This memorandum is filed on behalf of Christchurch City Council (**CCC**) and Canterbury Regional Council (**CRC**) in response to the Commissioner's Minute dated 17 December 2021.
2. It provides CCC and CRC's position on the relationship between the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill (**Bill**) and the various Private Plan Changes (**PPCs**) that have been heard by Commissioner Caldwell, Independent Commissioner appointed by Selwyn District Council (**SDC**), over the past several months.
3. While the Minute was issued in relation to PPCs 73, 75, 76 and 78 specifically, CCC and CRC consider that the same issues and potential implications arise for PPCs 67 (West Melton) and 69 (Lincoln South).

CCC and CRC position

4. The implications of the Bill for the PPCs that are the subject of this memorandum are potentially significant, and warrant careful consideration before any decisions are made.
5. This careful consideration should involve at least legal submissions, if not further evidence, on material matters and issues arising as a result of the Bill. In order to facilitate this additional input, CCC and CRC consider that the Commissioner should put in place a timetable in the New Year.

The impact of the Bill

6. The impact of the Bill on residential zoned land is two-fold:
 - (a) It requires the incorporation, in all relevant residential zones, of the new medium density residential standards¹ (**MDRS**), by way of an intensification planning instrument (**IPi**) that must be

¹ The MDRS are set out in Schedule 3A of the Bill and require, notably, that certain objectives, policies and density standards are incorporated into the Selwyn District Plan for all residential zones.

notified by specified territorial authorities by no later than 20 August 2022; and

- (b) For any plan change (privately initiated or otherwise) that has not been the subject of a decision before Royal Assent, and which has not incorporated the MDRS, clause 34 of the Bill requires that the relevant local authority must notify a variation to that plan change to incorporate the MDRS, again by no later than 20 August 2022.

- 7. While the mandatory timing remains several months away, there is a high degree of certainty that the upcoming IPI processes will involve significant changes to the form and density of development in relevant residential zones. This will almost inevitably result in changes to housing capacity and demand figures, and increase pressure on the infrastructure that is expected to service these residential zones.
- 8. CCC and CRC consider that this eventuality warrants close consideration by the parties and, significantly, SDC, before any PPCs are determined.
- 9. The uncertainty surrounding the implications of the Bill, prior to its enactment, was recognised by the Panel appointed to hear rezoning submissions on the proposed Selwyn District Plan. The end result in that instance was a decision to defer the hearings and evidence exchange for all rezoning submissions, given the potential implications on matters including housing capacity and infrastructure.
- 10. These downstream implications were also recognised by other parties in the SDC PDP process. This included Ms Semple, counsel for Kainga Ora – Homes and Communities (and also counsel for the applicant in PC67), who filed a memorandum dated 22 November 2021 which stated:

- 9 Once the Bill is enacted, the Council will need to assess what it means not only for the hearings process, but also with respect to the practical implications of any new development standards and their anticipated effects in terms of housing capacity and infrastructure provision. On the basis of this, the model for residential capacity in the District will need to be revisited.

- 10 Realistically, the Council is not expected to be able to provide further details of its position on these matters until well into the new year at the earliest. As outlined in Kainga Ora's previous Memorandum on this matter (5 October 2021) the residential capacity analysis is a matter which is critical to the rezoning hearings.
- 11 It is difficult to see the utility in evidence being prepared in relation to PDP provisions that are expected to be withdrawn and on the basis of a residential capacity analysis that requires significant reconsideration once the effects of the (likely) mandatory MDRS are factored in. In the face of this reality, it appears inefficient and unhelpful to the Commissioners (and submitters) to maintain the present timetable.

11. CCC and CRC consider that the same concerns arise in this instance for the PPCs that are currently on foot, albeit that they are more advanced than the PDP rezoning submissions. All will be subject to the same requirement to incorporate the MDRS in due course, if approved, noting that CCC and CRC are in opposition to the PPCs referenced above.

Housing capacity, demand and related implications

12. The Bill requires the incorporation of the MDRS unless certain "qualifying matters" are involved, which can allow a local authority to adopt a "less enabling" approach for development.
13. At present, there is no evidence before the Commissioner as to whether any of the qualifying matters in clause 77G of the Bill will be, or conceivably could be, engaged in order to make the PPCs less enabling than the MDRS. As a result, CCC and CRC consider it reasonable to assume that the starting point will be that these PPCs would (if approved) need to be varied to incorporate the MDRS, which will result in significantly increased housing capacity from what is currently proposed.
14. The addition of this increased capacity can be expected to alter findings relative to not only capacity, but demand, infrastructure servicing, and the appropriate spatial location for 'MDRS type' development. CCC and CRC consider it entirely reasonable, and indeed responsible, to allow

time to properly consider these implications, before making any determinations. This is particularly so given that CCC and CRC have raised concerns with the existing infrastructure servicing arrangements, and a less enabling level of density.

15. If these implications are not fully considered, then there is the potential for plan changes to be approved (noting again CCC and CRC's opposition), and then undergo significant changes. There is the potential for adverse consequences to arise, including that these plan changes would not achieve the policy outcomes sought by the CRPS and NPS-UD, including the establishment of well-functioning urban environments and reduction of greenhouse gas emissions.
16. While it is perhaps unfortunate that the ground has shifted on the parties involved in these PPCs, with a new higher level policy requirement now applying to all residential zones, because of the importance of making longer-term, strategic decisions on spatial planning matters, additional time should be provided to allow for additional input to assist the Commissioner. Accordingly, CCC and CRC consider that the Commissioner should not proceed with decision-making for these PPCs at this time, and should instead provide opportunities for further input from the parties.
17. Counsel is happy to assist further by providing input into potential timetable directions with the other parties.

DATED this 21st day of December 2021



M Wakefield

Counsel for Christchurch City Council and Canterbury Regional Council