

Before the Independent Hearings Panel  
at Selwyn District Council

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*under:* the Resource Management Act 1991

*in the matter of:* Submissions and further submissions in relation to the  
proposed Selwyn District Plan

*and:* **Rolleston West Residential Limited**  
*Submitter DPR-0358*

*and:* **Rolleston Industrial Developments Limited**  
*Submitter DPR-0384*

*and:* **Rolleston Industrial Holdings Limited**  
*Submitter DPR-0374*

*and:* **iPort Rolleston Holdings Limited**  
*Submitter DPR-0363*

*and:* **CSI Property Limited**  
*Submitter DPR-0392*

Memorandum of Counsel on behalf of submitters regarding Minute  
19

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Dated: 6 July 2022

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## MEMORANDUM OF COUNSEL ON BEHALF OF SUBMITTERS REGARDING MINUTE 19

### INTRODUCTION

- 1 We act for the following parties:
  - 1.1 Rolleston West Residential Limited (DPR-0358);
  - 1.2 Rolleston Industrial Developments Limited (DPR-0384);
  - 1.3 Rolleston Industrial Holdings Limited (DPR-0374);
  - 1.4 iPort Rolleston Holdings Limited (DPR-0363); and
  - 1.5 CSI Property Limited (DPR-0392) (together 'the *Submitters*').
- 2 The Submitters have all lodged submissions on the proposed Selwyn District Plan (the *Proposed Plan*) seeking rezoning of land (the *Rezoning Requests*). The Rezoning Requests sought include rezoning to industrial, and more relevantly, rezoning to residential.
- 3 The purpose of this memorandum is two-fold:
  - 3.1 to seek clarification on the matters contained in Minute 19 and highlight some practicalities relating to the residential rezoning request hearings in light of the Resource Management (Enabling Housing Supply and other Matters) Amendment Act 2021 (the *EHS Act*); and
  - 3.2 to request a short extension on the exchange of some of the rezoning evidence.

### REZONING EVIDENCE AND THE EHS ACT

- 4 Minute 19 sets out a revised timetable for the exchange of evidence regarding the rezoning requests on the Proposed Plan. It also notes Council's requirements to notify the intensive planning instrument (*IPI*) under the EHS Act by August 2022, and to issue recommendations on the same by August 2023. Minute 19 notes:
 

*"The Council understandably wishes decisions on the PDP and the IPI to be released concurrently. That sets an overall timeframe for the completion of the PDP hearing process, including the hearing of rezoning requests."*
- 5 Further, in the cover email to Minute 19 (the *Email*),<sup>1</sup> the Council's District Plan Administrator states:

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<sup>1</sup> Email from Emma Robertson dated 30 May 2022.

*"Please note that any submissions seeking to rezone land for residential purposes in Rolleston, Lincoln and Prebbleton will need to incorporate the Medium Density Residential Standards (MDRS), as required by the EHS Act. If there is insufficient scope within your submission on the PDP to achieve these intensification standards within a relevant residential zone in Rolleston, Lincoln and Prebbleton, you may wish to consider submitting on the Variation when this is notified in August 2022. Please also advise if you wish to withdraw your submission on the PDP that does not align with the requirements of the EHS Act."*

- 6 Minute 19 and the Email have raised a number of procedural queries relating to the residential rezonings (particularly regarding the timing of evidence exchange).
- 7 We raise these issues here and seek clarification from the Council and Commissioners on the same.

#### **CLARIFICATION SOUGHT**

##### **The Medium Density Residential Standards (the MDRS)**

- 8 The Email states that the exchange of evidence for the residential rezoning requests "will need to" incorporate the MDRS. The Submitters have residential rezoning requests in Lincoln and Rolleston. We can't find anything in the EHS Act which requires existing submissions seeking rezoning in a proposed plan process to incorporate the MDRS.
- 9 We note that the first round of submitter evidence for the rezoning requests is due on 5 August 2022. This date is prior to when the Council has to notify its IPI to incorporate the MDRS into the Proposed Plan (we understand that Selwyn Council intends to notify its IPI the week of 15 August).
- 10 This means that none of the submitters providing evidence on residential rezonings will be clear how the Council intend to draft or implement the MDRS into its Proposed Plan, nor where it might consider there is a need to restrict the application of the MDRS due to the identification of a qualifying matter (for example a matter of national importance, or a matter to ensure the safe and efficient operation of nationally significant infrastructure).
- 11 We consider it would be a burdensome and futile exercise to require submitters to effectively guess in the preparation of the rezoning evidence how the Council might implement its IPI, and what qualifying matters might be identified, before a draft of this is made available to the public. It is likely that submitters will come up with a range of different ways the MDRS might be incorporated into the Proposed Plan and there will be debate over qualifying matters. Inevitably, this will result in inconsistency between submitters and

an effective rewrite of the evidence at the rebuttal stage to account for the IPI which would by that point in time have been notified.

- 12 We therefore intend to approach the 5 August 2022 evidence deadline as not requiring the incorporation of the MDRS given the IPI will not have been notified but noting that there will be a separate opportunity for submissions to be lodged on the IPI in respect of residential rezonings if the Submitters seek MDRS standards, and assuming therefore that there will be another opportunity to provide evidence to support those submissions.
- 13 The Submitters request that the Commissioners confirm the above approach is appropriate, or alternatively, if incorporation of the MDRS is required to form part of the rezoning evidence, to delay the exchange of the rezoning evidence until a reasonable time after the IPI has been notified and qualifying matters have been identified by Council.

**Another round of rezoning submissions and hearings?**

- 14 We understand from the EHS Act that once Council has notified its IPI it must conduct a hearing of public submissions. Minute 19 does not address how those submissions and hearings on those submissions will be dealt with alongside the rezoning requests to the Proposed Plan. This raises a number of important procedural questions:
  - 14.1 Will there be two different hearings for rezoning requests (i.e. one for the Proposed Plan and one for the IPI) and if so, will the Panel hear both?
  - 14.2 If there will be two hearings, and a submitter seeks to rezone the same parcel of land, is that submitter required to attend and present evidence at both hearings?
  - 14.3 What will be the evidence timeframes be for submissions on the IPI that are requesting rezoning?
- 15 We seek clarification on these issues.

**Withdrawal of submissions**

- 16 We also query why the Council Officer in her Email suggests that submissions which do not meet the MDRS might be withdrawn. Is she suggesting that those submissions would not have scope to pursue the MDRS in evidence without also submitting on the IPI? How is the Council proposing to deal with those rezoning submissions where MDRS standards are not appropriate as a qualifying matter applies?

## SHORT EXTENSION SOUGHT

### Request 1

- 17 As noted above, at this stage the Submitters are not incorporating the MDRS into the evidence for the rezonings. They are proceeding with evidence to support their existing submissions on the understanding that further opportunity for evidence to support any submissions lodged in response to the IPI will be provided. Until the IPI is notified we do not know whether the Submitters will be lodging submissions seeking MDRS standards or not.
- 18 The Submitters are currently preparing evidence for the rezoning requests listed in **Appendix 1** for 5 August. **Appendix 1** also indicates the briefs of evidence required for each of these requests. In total, the Submitters expect to file some 37 briefs of evidence from some 24 different experts by 5 August.
- 19 The Submitters, however, seek a short extension on the date to file evidence for the rezoning requests listed in **Appendix 2** (being a further 34 briefs from some 22 experts).
- 20 The sites subject to the request for extension are subject to private plan changes to the operative District Plan (known as PC73, PC80, PC81, and PC82) which are at various stages along their respective hearing processes as set out in **Appendix 2**.
- 21 PC81 and 82 (residential) have now been set down for hearing on 12 September 2022 for three days. PC80 (industrial) has been set down for hearing on 20 October 2022 for two days. This means that evidence from the Submitters (who are the proponents of these plan changes) will be due on these plan changes in late August and early October 2022 respectively (being the usual 10 working days before the commencement of the hearing).
- 22 PC73 (residential) has been heard and is the subject of an appeal that has been set down for Environment Court mediation in mid-August.
- 23 There are a number of reasons for seeking the extension:
  - 23.1 Firstly, it will be difficult to finalise the expert evidence on the rezonings without first seeing the s42A Officer's Report for the Private Plan changes for PC80, 81, and 82;
  - 23.2 The expert witnesses for PC73, 80, 81, and 82 (many of which are providing evidence on multiple rezoning requests) are already preparing a significant amount of evidence for 5 August as set out in **Appendix 1**. We understand some of these experts are also providing evidence for other submitters and are concerned about capacity issues;

- 23.3 It would be much more efficient use of experts if the date for the evidence of the rezoning requests set out in **Appendix 2** aligned closer with the date that evidence would be due on the private plan changes PC80, 81, and 82, after the s 42A Officer's Report is received, and after the mediation of PC73 scheduled for mid-late August;
- 23.4 It is likely that the evidence of the experts for both processes will be largely the same;
- 23.5 We consider an extension to **5 September 2022** for the evidence regarding the PC73, 81, and 82 residential rezonings (West of Dunns Crossing Road), and to **5 October 2022** for the evidence regarding the PC80 industrial rezoning (Two Chain Road) would be appropriate and efficient to align with the timeframes for evidence in the three private plan change processes and after the PC73 mediation;
- 23.6 We do not consider this extension would prejudice any other party, noting that evidence will still be filed well in advance of the 20 working days before any hearing is held and Council has the ability to decide the order in which it hears the rezoning submissions from January 2023.
- 24 The reason we have also included the land covered by PC73 in this extension request (despite decisions having been made on this private plan change already and the matter now being on appeal to the Environment Court) is that PC81 and 82 adjoin PC73. At the Environment Court mediation in August and at the PC81 and 82 hearing before a Commissioner in September, the evidence will be presented as if PC73, 81, and 82 were one integrated plan change.

#### **Request 2**

- 25 Regardless of the Panel's decision on the above request, specific extensions are also being sought for a number of key witnesses as a result of availability constraints.
- 26 Firstly, Nicole Lauenstein (who is giving evidence on urban design) is currently on leave overseas and does not return until 8 August. We seek a short extension to the date for her evidence on the following rezoning requests:
  - 26.1 Lincoln South residential (as shown at **Appendix 1**) until **5 September 2022**;
  - 26.2 West side of Dunns Crossing Road residential (as shown at **Appendix 2**) until **5 September 2022**; and
  - 26.3 Two Chain Road industrial (as shown at **Appendix 2**) until **5 October 2022**.

- 27 Cathy Nieuwenhuijsen (who is giving evidence on odour and reverse sensitivity issues) is also on leave and not contactable until 6 August. We seek a short extension to the date for her evidence on the following rezoning requests:
- 27.1 Lincoln South residential (as shown at **Appendix 1**) until **5 September 2022**; and
- 27.2 West side of Dunns Crossing Road residential (as shown at **Appendix 2**) until **5 September 2022**.
- 28 Donovan van Kekem's role is as a peer reviewer to Ms Nieuwenhuijsen's assessment. The same extension is therefore also sought for Mr van Kekem until **5 September 2022**.
- 29 Ms Lauenstein, Ms Nieuwenhuijsen, and Mr van Kekem are also key experts who are involved in the Environment Court mediation in the weeks of 15 and 22 August in relation to PC73.


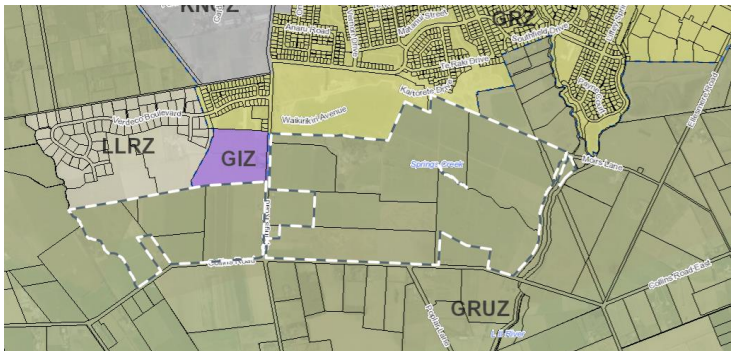
Dated 6 July 2022



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Jo Appleyard / Lucy Forrester  
Counsel for the Submitters

# APPENDIX 1 – SUBMITTER EVIDENCE ON REZONING REQUESTS TO BE LODGED ON 5 AUGUST 2022

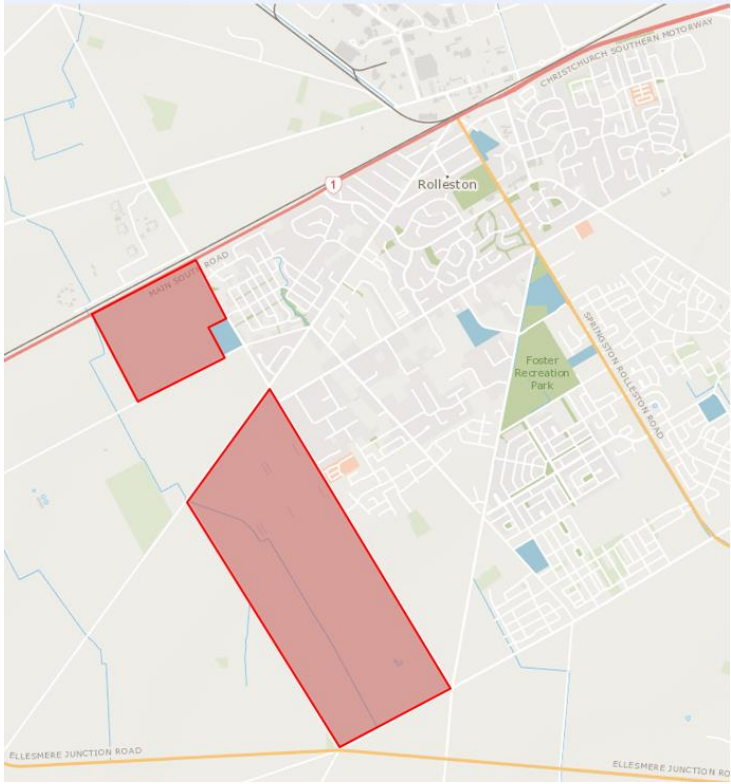
Submitter	Submission point	Map/Location	Request	Stage	Evidence to be filed 5 August
Rolleston Industrial Developments Limited (DPR-0384)	001	<b>'LFRZ Block'</b>  <p>Lot 600 DP 520689, bounded by Link Drive, Iport Drive, Jones Road and Hoskyns Road.</p>	From GIZ and LFRZ to LFRZ in its entirety.	N/A – being advanced only through the Proposed District Plan Process.	Company Planning Economics x2 Traffic Urban design
Rolleston Industrial Holdings Limited (DPR-0374)	001				
Rolleston Industrial Developments Limited (DPR-0384)	008, 009	<b>'Lincoln South'</b> 	From GRUZ to GRZ, NCZ, and LCZ.	This site was subject to Private Plan Change 69 to the Operative District Plan.  The Commissioner recommended Council approve the plan change. Council notified its acceptance of the recommendation on 22 June 2022.	Company Planning Economics x2 Real estate Valuer Infrastructure




Submitter	Submission point	Map/Location	Request	Stage	Evidence to be filed 5 August
		RS 38994, RS 40021, Pt RS 2456, Pt RS 2933, Pt RS 2951, Pt RS 5844, Pt Lot 1 DP 4157, Lot 8 DP 68631, Lot 1 DP 5095, Lot 2 DP 5095, Pt Lot 2 DP 4157, Lot 1 DP 16247, Lot 2 DP 494430, Pt Lot 3 DP 4157, Lot 1 DP 55313, Lot 1 DP 20660, Lot 1 DP 494430, and Lot 7 DP 68631.			<p>GHG Emissions</p> <p>Urban design x2 (noting a specific extension is sought for Nicole Lauenstein until 5 September 2020)</p> <p>Odour x2 (noting specific extensions are sought for Cathy Nieuwenhuijsen and Donovan van Kekem until 5 September 2020)</p> <p>Versatile soils x2</p> <p>Traffic x2</p> <p>Geotech</p> <p>Flooding/stormwater</p> <p>Ecology x3</p> <p>Greenhouse gas emissions</p>



**APPENDIX 2 – SUBMITTER EVIDENCE ON REZONING REQUESTS SEEKING SHORT EXTENSION TO ALIGN WITH THE PRIVATE PLAN  
CHANGE EVIDENCE PREPARATION**

Submitter	Submission point	Map/Location	Request	Stage	Extension sought to 5 September 2020 on evidence
Rolleston West Residential Limited (DPR-0358)	002	<p><b>'West Side of Dunns Crossing Road'</b></p>  <p>Comprising land subject to private plan changes 73, 81, and 82. More specifically:</p>	<p>From LLRZ and GRUZ to GRZ and NCZ.</p>	<p>The sites zoned LLRZ in the proposed District Plan are subject to Private Plan Change 73 to the Operative District Plan.</p> <p>The Commissioner recommended Council decline PC73. Council notified its acceptance of the recommendation on 5 April 2022.</p> <p>PC73 is subject to appeal to the Environment Court with mediation to occur mid-late August. Council and the Submitters are the only parties to this appeal.</p> <p>The remainder of the land is largely subject to Private Plan Changes 81 and 82 to the Operative District Plan with a hearing set down for three days on 12 September 2022.</p>	<p>Company</p> <p>Planning</p> <p>Economics x2</p> <p>Real estate</p> <p>Infrastructure</p> <p>GHG Emissions</p> <p>Urban design x2 (noting a specific extension is sought for Nicole Lauenstein until 5 September 2020)</p> <p>Noise</p> <p>Odour x2 (noting specific extensions are sought for Cathy Nieuwenhuijsen and Donovan van Kekem until 5 September 2020)</p>
CSI Property Limited (DPR-0392)	002				
CSI Property Limited (DPR-0392)	003				
CSI Property Limited (DPR-0392)	008 and FS018				

Submitter	Submission point	Map/Location	Request	Stage	Extension sought to 5 September 2020 on evidence
		<ul style="list-style-type: none"> <li>Part Rural Section 31354, Part Rural Section 31356 and Part Section 4 Reserve 1342</li> <li>Lot 1 DP 72132, Lot 2 DP 72132, Lot 1 DP 20007, Lot 3 DP 72132, Lot 1 DP 74061, Lot 2 DP 491231, Lot 2 DP 74801, Pt RES 1045, Lot 1 DP 26197, Lot 1 DP 491231, Lot 1 DP 74801.</li> <li>RS 25807 and RS 23614 Leeston Road.</li> <li>Lot 1 DP 82068, Lot 4 DP 20007, Lot 3 DP 20007.</li> </ul>			<p>Traffic x2</p> <p>Geotech</p> <p>Contaminated land</p> <p>Ecology</p> <p>Greenhouse gas emissions</p> <p>Versatile soils</p>

Submitter	Submission point	Map/Location	Request	Stage	Experts required – extension sought to 5 October 2022
CSI Property Limited (DPR-0392)	007	<p><b>'Two Chain Road'</b></p>  <p>Land bounded by Two Chain Road, Walkers Road and State Highway 1: Lot 1 DP 33398, Lot 2 DP 33398, Lot 1 DP 33996, Lot 2 DP 33996, Lot 3 DP 33996, Lot 2 DP 305466, Lot 1 DP 305466, Lot 5 DP 33996, Lot 6 DP 33996, Lot 1 DP 27804, Lot 2 DP 27804, Lot 3 DP 59950, Lot 1 DP 310517.</p>	From GRUZ to GIZ.	The site is subject to Private Plan Change 80 to the Operative District Plan with a hearing set down for two days on 20 October 2022.	<p>Company</p> <p>Planning</p> <p>Economics</p> <p>Real estate x2</p> <p>Valuer</p> <p>Infrastructure</p> <p>Urban design x2 (noting a specific extension is sought for Nicole Lauenstein until 5 October 2020)</p> <p>Versatile soils</p> <p>Traffic</p> <p>Noise</p> <p>Ecology</p> <p>Greenhouse gas emissions</p> <p>Freight</p>

