

**BEFORE INDEPENDENT HEARING COMMISSIONERS
AT SELWYN**

**I MUA NGĀ KAIKŌMIHANA WHAKAWĀ MOTUHAKE
HEREWINI**

IN THE MATTER OF the Resource Management Act 1991

AND

IN THE MATTER OF of the hearing of submissions on the
Proposed Selwyn District Plan

**MEMORANDUM OF COUNSEL ON BEHALF OF KĀINGA ORA – HOMES
AND COMMUNITIES (SUBMITTER DPR-414)**

Hearing 30 - Rezoning

22 November 2021

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MAY IT PLEASE THE PANEL

- 1 Kāinga Ora—Homes and Communities (**Kāinga Ora**) is a submitter (DPR-0414) and further submitter on the proposed Selwyn District Plan (**PDP**).
- 2 The purpose of this memorandum is to seek clarification from the Hearings Panel in relation to the current evidence exchange timetable for the rezoning hearings.

The Bill

- 3 As you are aware, the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill (the **Bill**) was announced on 19 October 2021. Its first reading was on 26 October 2021 and the Bill is now before the Environment Committee for consideration, with submissions having closed on 16 November 2021. The Bill is expected to be passed in December 2021.
- 4 The Bill proposes to amend the RMA to bring forward and strengthen the implementation of the NPSUD by:
 - (a) Introducing Medium Density Residential Standards (**MDRS**) to enable greater housing variety and choice, with up to three homes up to three storeys on most sites without resource consent; and
 - (b) Introduce the new Intensification Streamlined Planning Process to more quickly implement the NPSUD.
- 5 The Bill includes transitional provisions which require Tier 1 territorial authorities such as Selwyn District Council to withdraw proposed district plans, in whole or in part, where the proposed plan:
 - (a) Proposes changes to, or the creation of, relevant residential zones that do not incorporate the MDRS; and
 - (b) A hearing has not completed by 20 February 2022.

- 6 On the basis of the current wording, Selwyn District Council is likely to be required to withdraw (at least) the PDP's residential provisions. The PDP does not (of course) incorporate the MDRS because the MDRS did not exist when the plan was notified, and the MDRS seeks to establish more intensive residential development than the PDP does.
- 7 Given the bipartisan support for the Bill at its introduction, it is expected that the overall aims and outcomes of the Bill are likely to remain substantially similar following the legislative process. Until that time, however, the precise implications of the Bill are uncertain. This has been recognised by a number of councils¹, including Selwyn District Council, with a number of plan change hearings altered in response.

Council response

- 8 In light of the Bill, the Council advised on 5 November 2021 that the subdivision and residential hearings would be deferred. After further inquiry of the Council, Kāinga Ora was advised that the rezoning hearing would also be postponed, but that the evidence exchange timetable would remain in place. That timetable requires evidence to be lodged by submitters on 2 February 2022.
- 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.

¹ We are aware of hearings being cancelled by Tauranga City Council for plan change 26, directions placing Hearing Stream 7 of the Porirua Proposed District Plan on hold, and hearing dates for Auckland's Plan Change 55 being brought forward in response to the Bill.

- 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.

Request for Directions

- 12 Given the circumstances, it is submitted that it would be inefficient and ineffective to require submitters to continue preparing evidence at this time. Accordingly, Kāinga Ora respectfully requests confirmation from the Hearing Panel that the evidence exchange timetable for the rezoning topic is vacated until further notice.
- 13 Kāinga Ora wishes to thank the Panel for considering this request. Counsel is available as required to elaborate further on the information contained in this Memorandum if needed.

DATED this 22nd day of November 2021

L J Semple

Counsel for Kāinga Ora—Homes and Communities