

**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

**SUPPLEMENTARY STATEMENT OF EVIDENCE OF JOE JEFFRIES
ON BEHALF OF KĀINGA ORA – HOMES AND COMMUNITIES
(SUBMITTER DPR-414)**

Planning

Hearing 23– Commercial and Mixed Use Zones

3 November 2022

GREENWOOD ROCHE
LAWYERS
CHRISTCHURCH
Solicitor: L J Semple
(lauren@greenwoodroche.com)

Submitter's Solicitor
Kettlewell House
Level 3, 680 Colombo Street
P O Box 139
Christchurch
Phone: 03 353 0574

1 INTRODUCTION

- 1.1 My name is Joe Jeffries. I am an Associate at Barker & Associates. I have provided a statement of planning evidence dated 18 February 2022 and a supplementary statement of evidence dated 4 March 2022 on behalf of Kāinga Ora-Homes and Communities (**Kāinga Ora**) in relation to Hearing Topic 23 Commercial and Mixed Use Zones (**CUMZ**) on the Selwyn Proposed District Plan (**PDP**).
- 1.2 The purpose of this supplementary evidence is to respond to questions from the Hearing Panel in Minute 31. Specifically, the Panel has sought further evidence from me on:
- (a) measures that may address reverse sensitivity issues including internal noise levels to be achieved in residential units; and
 - (b) details (including permitted activity standards) of how the other district plans referred to in my evidence (i.e. the proposed plans for New Plymouth, Waimakariri and Porirua) specifically provide for residential units in commercial zones.

2 BACKGROUND

- 2.1 Kāinga Ora's submission sought amendments to TCZ-R3, LCZ-R3 and NCZ-R3 to make residential units a permitted activity above ground floor level. I provided expert planning evidence in support of these submission points in Section 10 of my evidence in chief in response to the reporting officer's recommendation that they be rejected:

I disagree with the reporting officer and support [the] Kāinga Ora submission. Not providing any permitted baseline for residential units will act as a disincentive for residential development and is inconsistent with the direction set out in the NPS-UD around enabling a variety of homes with good accessibility, and enabling more people to live in or near centre zones.

Under the PDP, commercial activities such as offices and retail are permitted in the centre zones, but there is no permitted pathway for residential units which are likely to have similar effects on the surrounding environment. It is not clear why such a distinction should be made for residential units only, or why the rules should bias development towards commercial activities over residential in what purports to be a mixed use zone (CMUZ).

If the purpose of the RDA status for residential units is to help achieve internal residential amenity, then permitted standards around matters such as outlook and outdoor living space would be a more appropriate and effective way of achieving this.

I note that all recently proposed district plans that I am aware of make at least some number of residential units a Permitted activity in equivalent centre zones. For example:

- *In the Proposed New Plymouth District Plan residential units and activities are Permitted with no limit on number of units in the LCZ and TCZ zones.*
- *Under the Proposed Waimakariri District Plan residential units above ground floor are permitted, with no maximum number specified, in the NCZ, LCZ, and TCZ zones.*
- *In the Proposed Porirua District Plan up to two residential units per site are Permitted in the NCZ and LCZ zones.*

I am not aware of any recently proposed district plans which do not, at a minimum, provide for a certain number of residential units as a permitted activity in commercial and mixed use zones.

3 PROVISION OF RESIDENTIAL UNITS IN COMMERCIAL ZONES

New Plymouth Proposed District Plan

- 3.1 As mentioned above, under the Proposed New Plymouth District Plan residential units and residential activities, are Permitted Activities with no limit on number of units in the LCZ and TCZ zones, where the zone effects standards are complied with. None of the zone effects standards relate to residential units specifically. Rather they address elements of built form that apply to all buildings regardless of use.
- 3.2 The only additional condition on this permitted activity rule in the LCZ and TCZ zones is that residential units and activities must meet the noise insulation standards set out in NOISE-S3. NOISE-S3 requires that habitable rooms¹ within residential units in the TCZ and LCZ

¹ Under the New Plymouth Proposed District Plan, 'habitable room' has the same meaning as under section 2 of the RMA and means any room used for the purposes of teaching or used as a living room, dining room, sitting room, bedroom, office or other room specified in the Plan to be a similarly occupied room. See Part 1: Introduction and General Provisions/Interpretation/Definitions..

zones² must be designed, constructed, and maintained to meet a specified internal noise level.

- 3.3 There are no other standards or conditions applying within the TCZ or LCZ zone provisions that are specific to residential activities.

Waimakariri Proposed District Plan

- 3.4 The approach in the Waimakariri PDP is similar³. Residential units above ground floor are a permitted activity, with no maximum number specified and no additional conditions, in the NCZ, LCZ, and TCZ zones.
- 3.5 There is an additional 'built form standard' for residential units in each of the three zones, that specifies minimum net floor area, a minimum area for outdoor living space, and minimum areas for storage and waste management. There are no other standards within the NCZ, LCZ, and TCZ zone provisions that apply to residential units specifically.
- 3.6 Under the Noise chapter in the District Wide matters, there is a permitted activity rule applying to bedrooms in the TCZ, LCZ, and NCZ zones which requires any bedroom that forms part of a residential activity to achieve a specified internal noise level⁴.

Porirua Proposed District Plan

- 3.7 Under the Variation 1 version of the Porirua PDP, up to three residential units per site are permitted in the NCZ and LCZ zones⁵ where these are located above ground floor, and comply with a standard on outdoor living space.
- 3.8 Under the Noise chapter in the District Wide matters, habitable rooms⁶ within new residential units must be designed, constructed and maintained to meet specified internal noise levels⁷.

² The New Plymouth Proposed District Plan does not have a NCZ zone.

³ This approach is unchanged by Variation 1 to the Waimakariri PDP.

⁴ The specific internal noise level to be achieved is calculated as set out under NOISE-R18 of the Waimakariri PDP.

⁵ The Porirua Proposed District Plan does not include a TCZ zone.

⁶ The Porirua Proposed District Plan has the same definition as that in the New Plymouth Proposed District Plan, set out above in footnote 1.

⁷ The specific internal noise level to be achieved is calculated as set out under NOISE-S5 of the Porirua PDP.

4 MEASURES TO ADDRESS REVERSE SENSITIVITY ISSUES INCLUDING INTERNAL NOISE LEVELS

- 4.1 In a general sense, noise from commercial activities could potentially reduce amenity of residential units in mixed use areas. This has potential to create 'reverse sensitivity' issues in some cases, such as an existing bar or nightclub having its operations constrained due to complaints from new residents. However, rather than 'reverse sensitivity' this will more commonly be an issue of conventional sensitivity, with the inhabitants of residential units receiving the adverse effects of noise emitted by nearby uses.
- 4.2 As set out in the discussion above, a number of district plans require acoustic insulation for residential activities located in commercial mixed use zones.
- 4.3 The Kāinga Ora submission and my evidence in chief did not seek nor take a position on acoustic insulation for residential units in commercial mixed use zones. I do not have a particular view on whether this is appropriate in the Selwyn context, and I have not seen evidence to establish that it is.
- 4.4 However, requiring acoustic insulation through a permitted District Plan standard is an option available to address internal noise issues for residential units. As outlined above, it is common for district plans and proposed district plans nationally to take such an approach.
- 4.5 In my view, it would be preferable for the Selwyn PDP to provide residential units as permitted activities with permitted standards requiring acoustic noise insulation, than it would be to make residential units a restricted discretionary activity with 'acoustic privacy' for residents as a matter of discretion, as proposed. As stated in my evidence in chief, if the purpose of the restricted discretionary activity status for residential units is to help achieve internal residential amenity, then permitted standards around matters relating to internal amenity would be a more appropriate and effective way of achieving this.

- 4.6 However, as noted above I do not have a particular view on whether noise insulation requirements are specifically necessary in the Selwyn context, and I have not seen evidence to establish that they are.
- 4.7 I also note that the issue of internal noise is not an issue unique to residential units in mixed use areas. Dwellings in residential zones which directly adjoin commercial areas also have the potential to receive a level of noise from commercial activities which can effect internal amenity. I note that the Selwyn PDP does not propose acoustic insulation requirements for residentially zoned dwellings adjoining commercial areas. For example, in Rolleston there is a residentially zoned area around Markham Way with Town Centre zoning on three sides. It would be reasonable to assume that some of the dwellings in this area could be subject to similar noise exposure to residential units within the Town Centre Zone itself. It is therefore not clear why additional noise insulation requirements should be imposed on the Town Centre zoned residential units and not the residentially zoned ones where similar adverse effects might be anticipated.

5 **CONCLUSION**

- 5.1 In summary, requiring acoustic insulation for residential units in mixed use areas through permitted standards is a common approach adopted in district plans and proposed district plans nationally. This is an option available to address potential internal noise levels for residential units in the NCZ, LCZ, and TCZ zones in Selwyn, and in my view this approach would be preferable to the proposed approach of requiring a restricted discretionary resource consent for all residential units in these zones.
- 5.2 However, I have not seen sufficient evidence to establish that there is an issue with noise levels in these centre zones in Selwyn that would justify the costs of the imposition of district plan acoustic insulation requirements. I also note that dwellings on residentially zoned land in areas which could be subject to similar noise effects are not subject to similar standards. In the absence of acoustic evidence to support

acoustic insulation standards, I am unable to form a particular view on whether they are specifically necessary in the centres of Selwyn.

Joe Jeffries

3 November 2022