

BEFORE THE SELWYN DISTRICT COUNCIL

IN THE MATTER OF the Resource Management Act 1991

AND

IN THE MATTER OF Proposed Plan Change 80 being a request by Two Chain Road Limited to rezone approximately 98 hectares of current rural land at 7-183 Two Chain Road, on the south side of Two Chain Road between Walkers Road and Jones Road, and Main South Road, Rolleston to Business 2A

**MINUTE NO 4 OF COMMISSIONER DAVID CALDWELL
IN RELATION TO THE APPLICANT'S REPLY**

Dated 22 November 2022

1. In accordance with my Minute No 3 of 8 November 2022, I have received the following:
 - (a) Supplementary Evidence of Kim Seaton dated 15 November 2022;
 - (b) Supplementary Evidence of Mark Lewthwaite (noise) dated 15 November 2022;
 - (c) Supplementary Evidence of David Compton-Moen (landscape, visual amenity and urban design) dated 15 November 2022;
 - (d) Supplementary Evidence from the Reporting Officers dated 18 November 2022 prepared by Ms White incorporating commentary from Mr Reeves and Ms Faulkner.
2. In combination with the information earlier provided by the Submitter PC80-0010, I am satisfied I have enough information in relation to that particular issue.
3. I am satisfied that I have sufficient information and consider it is appropriate at this time to move towards the Applicant's reply. As anticipated in my Minute No 3, I direct that reply should be provided within seven (7) working days of this Minute, being **by 5.00pm 1 December 2022**.
4. Without in any way limiting the Applicant's right of reply, I consider I would benefit from reply submissions in relation to the following matters.

NPS-HPL

5. The NPS-HPL, particularly in light of its reasonably strong avoidance policy (Policy 5 in particular) and what appear to me to be quite prescriptive exemptions/exceptions. Clause 3.6, in terms of the implementation, appears to be strongly directive. It provides that territorial authorities may allow urban rezoning of HPL only if (my emphasis) (a), (b) and (c) are all met.
6. While these issues were addressed by the Applicant in opening, I consider that there would be benefit in this being further addressed in some detail following the presentation of evidence and the various discussions during the hearing.
7. A number of the Applicant's witnesses advised that the plan change would still be appropriate even if the HPL was excluded. I have of course made no decision in relation to the NPS-HPL at this stage. It may however be helpful if the Applicant provided, with its reply, an ODP excluding the HPL.

Transfer of Water Consent

8. Another issue I consider I would benefit from submissions on relates to the partial transfer of the take and use consent from the Plan Change 69 site. I would appreciate further submissions in light of the Court of Appeal decision in the *Aotearoa Water Action Inc* appeal.¹

¹ *Aotearoa Water Action Inc v Canterbury Regional Council & Ors* [2022] NZCA 325

Conclusion

9. I stress that the matters which I have specifically identified above should not be taken as in any way indicating that I am satisfied in relation to all other matters. The specific references are not intended to restrain or limit the scope of the Applicant's reply. I expect the Applicant to provide a full package of changes to the operative District Plan which they seek.
10. If there are any issues arising from this Minute, they may be raised, in writing, through Heather Goh at submissions@selwyn.govt.nz.



David Caldwell
Hearing Commissioner

Dated: 22 November 2022