

**BEFORE HEARING COMMISSIONERS DELEGATED BY FAR NORTH
DISTRICT COUNCIL / TE KAUNIHERA O TE TAI TOKERAU KI TE RAKI AT
KAIKOHE**

UNDER the Resource Management Act 1991 (**RMA**)
IN THE MATTER of the hearing of submissions on the Proposed Far North
District Plan

**MEMORANDUM OF COUNSEL FOR KIWI FRESH ORANGE COMPANY
LIMITED (SUBMITTER 554)**

23 September 2024

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MAY IT PLEASE THE PANEL

- 1 In Minute 7, the Independent Hearings Panel (**Panel**) sought further information following Hearing 1 on the Proposed Far North District Plan (**PDP**) regarding Kiwi Fresh Orange Company Limited's (**KFO**) submission that the Kerikeri-Waipapa area is properly an "urban environment" to which the NPS-UD applies.
- 2 The Panel directed the Far North District Council to arrange for an independent peer review of evidence from Adam Thompson (economist) and Burnette O'Connor (planning).
- 3 The Council issued an interim response saying that it would provide the results of the requested review during the first urban topic, which was Hearing 8 (General Residential and Engineering Standards), set for 25 November 2024.
- 4 In Minute 8, the Panel deferred hearing on the general residential topics to integrate the Kerikeri-Waipapa Spatial Plan process.
- 5 By further memorandum, the Council has proposed to further delay its response to Minute 7 to Hearing 14, re-scheduled for 21 July 2025.
- 6 For the reasons set out below, Counsel respectfully submits that the Council deferring its response is contrary to the efficient hearing of submissions on the PDP: Delaying the response will limit the value of any interim guidance on whether Kerikeri-Waipapa is an urban environment for the purpose of the NPS-UD and the consequences that has for the PDP.
- 7 KFO respectfully requests that the Panel direct the Council to provide its response to Minute 7 within a reasonable timeframe. stating when the Council is to provide its response to Minute 7. KFO request that date be set in accordance with the Council's original interim response, being 25 November 2024.

Reasons against deferral

- 8 Counsel respectfully submits that the Council's proposed timeframe is inappropriate:
 - (a) The Council has not provided reasons to justify the deferral of its response. To the contrary, its previous interim response suggests the Council had the capacity to respond by Hearing 8.

Absent countervailing reasons, the Panel can assume that no resource constraints prevent the Council from supplying the requested information sooner.

- (b) While the Minute 7 did not direct a timeframe for the Council's response, a response approximately one-year after the direction was issued cannot have been contemplated when the direction was issued.
- (c) The Council has now produced a Housing and Business Assessment. KFO understood the Council wanted this Assessment before responding to Mr Thompson's and Ms O'Connor's evidence.
- (d) KFO's submission on the urban environment was originally assigned to Hearing Stream 1. It is appropriate that decisions about strategic direction are resolved under the assigned hearing topic. Earlier provision of the Council's response would support the procedural efficiency of the hearing streams and allow the Panel to issue interim guidance, should it decide to.
- (e) In addition to facilitating procedural efficiency of hearing streams, earlier provision of the information means KFO and other submitters are afforded the time reasonably required to respond to the Council's position. In doing so, the Panel can be better assured that it has all the information it needs to make an informed decision on whether the submission area is properly an urban environment.
- (f) Although the Kerikeri-Waipapa Spatial Plan motivated the amendment of the hearing schedule, the matters the Council was directed to respond to can be addressed separately from the Spatial Plan.
- (g) The Kerikeri-Waipapa Spatial Plan process would instead be improved by direction from the Panel about whether Kerikeri-Waipapa is an urban environment, given the purpose of a spatial plan is to illustrate the intended future location, form and mix of land uses. The same benefits of receiving interim guidance from the Panel during the strategic direction hearing to inform later urban environment hearings also apply to spatial planning.

Relief sought

- 9 For the reasons given, Counsel respectfully requests that the Council's response to Minute 7 be provided by 25 November 2024.



Mike Doesburg
Counsel for Kiwi Fresh Orange Company Limited

Date: 23 September 2024