

**IN THE MATTER**

of the Resource  
Management Act 1991

**AND**

**IN THE MATTER**

of Hearing of Submissions  
and Further Submissions  
on the Proposed Porirua  
District Plan

### **Minute 42 – Silverwood Adjournment Application**

1. The submission of Silverwood Corporation Limited (**Silverwood**) seeks that a substantial area of land (some 114 hectares) between Whitby/Waitangirua and Te Ara Nui o Te Rangihaeata/Transmission Gully be rezoned from Rural to Future Urban Zone (**FUZ**). It has been allocated to Hearing Stream 5, along with other submissions related to the FUZ.
2. In Minute 35, we discussed an application we had received from counsel for Silverwood requesting an adjournment of the hearing of Silverwood's submission to enable it to obtain economic evidence to support its position. We granted that adjournment for the reasons set out in Minute 35 and fixed a timetable to enable Silverwood's submission to be heard on 5 and 6 July.
3. Pursuant to that timetable we have received expert evidence from Silverwood and rebuttal evidence from the Council.
4. We have now received an application from counsel for Silverwood for a further adjournment to enable Silverwood's submission to be heard as part of Hearing Stream 7, which has been delayed pending notification of the Variation required pursuant to the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021.
5. The reasons given for the application are, in summary, that the Council's economic evidence in rebuttal from Mr Osborne highlights and relies upon the forthcoming Variation. Mr Dawson, for Silverwood, submits that Silverwood's submission and the Variation are now inextricably linked and that it would accordingly be premature to hear Silverwood's submission at this point.

6. Following receipt of Silverwood's application, we asked the Hearing Administrator to provide it to the Council and to Greater Wellington Regional Council, which has requested to be heard in relation to its further submissions opposing the relief sought by Silverwood, for their comment.
7. The Council does not support adjournment on the basis that the economic assessment is inherently dynamic, and adjournment will not solve that. The Council notes also the range of other matters, unrelated to economic issues that are the subject of expert evidence that has already been circulated and suggests it would be unnecessary and unreasonable to delay the hearing.
8. Greater Wellington Regional Council takes the opposite view. It supports Mr Dawson's application, but beyond suggesting that it seems the most sensible option, offers no more detailed reasons.

### **Discussion**

9. Part of the Council's case recommending rejection of Silverwood's relief is that the Proposed District Plan provides more than sufficient capacity for residential housing over the next thirty years (as required by the National Policy Statement for Urban Development 2020 (**NPSUD**)). Silverwood's economic evidence (from Mr Thompson) disputes that, primarily on the basis that the assessments of realisable residential capacity within commercial zones on which the Council has relied are significantly overstated. Mr Thompson argues more generally that the Council's economic analysis has failed properly to assess the extent to which the capacity that is available will address demand for affordable homes.
10. Mr Osborne's rebuttal evidence for the Council takes issue with Mr Thompson on a number of points. For present purposes, the most relevant point he makes is that whatever might formerly have been the position, the forthcoming Variation will put the extent of future residential capacity beyond doubt.
11. As Mr Dawson observes for Silverwood, it is difficult for it to respond to that argument because the Variation has not yet been notified. While Silverwood has available to it Mr Osborne's summary of the economic underpinning of the Variation, the detail of the Variation to be notified and the Section 32 evaluation supporting are is not yet available.
12. Mr Dawson makes a fair point in that regard. However, as Mr Osborne's rebuttal evidence outlines, the Variation makes a relatively minor positive

contribution to residential house supply over and above the intensification standards directed to be put in place by the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021.

13. In any event, we do not consider that any weight could be put on the content of the Variation at this point, to the extent that it may differ from the standards and requirements directed in the 2021 Amendment Act. While we understand that the Council has approved its notification, we do not know how it differs from the version the subject of consultation. In addition, even when it is notified, the Variation will be subject to submission and hearing process directed by the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021. What we can rely on, however, is that the final form of the Variation will, at minimum, implement the standards and requirements mandated by that Amendment.
14. In our view, it was obvious, on the enactment of that Amendment Act in December 2021, that it would significantly increase the theoretical residential capacity in Porirua City (and the other urban areas that are the subject of its provisions). What is less clear is the extent to which that additional theoretical capacity might realistically be expected to be taken up over the next thirty years.
15. Our understanding is that the Council has preliminary modelling predictions of the latter and at our suggestion, these were released to Silverwood, rather than have that emerge during the hearing in response to our questions, when Silverwood would have little or no opportunity to respond constructively to it.
16. All of this is, however, very much a work in progress. The Council is endeavouring to implement the statutory instruction while, at the same time, the broader economic forces discussed in Mr Osborne's rebuttal evidence are causing significant reductions in housing prices and significant increases in housing construction costs.
17. As above, the Council has described the position as dynamic. We think that is something of an under-statement. It seems to us that the only certainty is that the economic outlook will keep changing, and that the 'correct' position will only be evident with the benefit of hindsight (in 30 years time).
18. We think therefore, it follows that delaying the hearing of Silverwood's case on the basis that the position going forward will be clearer is a dubious proposition.

19. It is also relevant, in our view, that the relevance to Silverwood's relief of issues around the sufficiency of housing supply appears to depend on our accepting Ms Sweetman's analysis of the relevant policies, which direct the situations where FUZ is the appropriate zoning. If we accept the contrary view put by Ms Blick for Silverwood, it may not be necessary for us to consider those issues in order to determine whether or not to grant Silverwood's relief.
20. Even if we do accept Ms Sweetman's interpretation, economic issues are not the only consideration that would bear on Silverwood's submission. The landscape evidence of Mr Hudson for Silverwood and Ms Armstrong for the Council, in particular, needs to be addressed and has, as far as we can see, no interrelationship with these economic issues.
21. Council has prepared a range of other expert evidence, hearing of which has already been deferred once to accommodate Silverwood. We sympathise with its desire to have that evidence heard, and not be subject to a substantial further delay.
22. Silverwood, however, seeks to avoid unnecessary expense and confusion in the evidence. That position is understandable, but less persuasive than it would have been had the evidence not already been pre-circulated. Considerable effort has already gone into analysing Silverwood's submission.
23. Silverwood's request to defer hearing of its submission until Stream 7, also presents a procedural problem of its own.
24. While our current intention is not to release our decisions on the PDP until the Variation has 'caught up' and submissions on it have been heard, to preclude potential inconsistencies in outcomes, we anticipate that Stream 7 will be entirely subsumed within the forthcoming Variation and will be heard pursuant to sub-part 5A of the Resource Management Act: the new provisions governing the Intensification Streamlined Planning Process (**ISPP**). The FUZ is not an Urban Zone and cannot be heard within the ISPP. The relief sought by Silverwood, is accordingly not available. We would need to schedule a special hearing of Silverwood's submission around the same time as the hearing of the Variation.
25. In this complex situation, we consider that the best outcome is to proceed with hearing of the Silverwood submission next week as already scheduled, and to address the potential fairness that may result by giving Silverwood leave to make a further application to present further reasons (including

evidence) as to why its relief should be granted when the shape of the Variation and the materials supporting (and opposing) it are available. That would not necessarily require a further hearing. We are open to considering the issues on the papers if that is a practicable option, in order to reduce costs.

26. It follows that we decline Silverwood's application, subject to reservation of leave, as above.

**Dated 30 June 2022**

A handwritten signature in blue ink, consisting of a large, stylized 'T' followed by a horizontal line and a vertical line extending downwards.

**Trevor Robinson  
Chair  
For the Proposed Porirua District Plan Hearings Panel**