

**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)**

18 November 2024

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MAY IT PLEASE THE PANEL

- 1 In Draft Minute 14, the Independent Hearings Panel (**Panel**) set out a revised process to hear and consider rezoning submissions on the Far North Proposed District Plan (**PDP**).
- 2 The Panel directed that the standard PDP process for evidence exchange be 'reversed' for the rezoning hearings to enable the Panel to appropriately assess the rezoning requests in accordance with section 32 of the Resource Management Act 1991.
- 3 The direction follows Minute 7, whereby the Panel sought further information regarding Kiwi Fresh Orange Limited's (**KFO**) submission that the Kerikeri-Waipapa area is properly an "urban environment" to which the NPS-UD applies. By Minute 8, the Panel confirmed a revised hearing schedule which includes four separate rezoning hearings.
- 4 Counsel observes that the proposal to reverse the hearings timetable is likely to cause prejudice to a range of submitters, particularly in circumstances where the s42A Report may agree in whole or part with rezoning requests without substantial further information (for example, in circumstances where land has been incorrectly zoned). At a minimum, any reversed timetable should provide a step for the Council to give an initial position on submissions, so that submitters can understand where they sit vis-à-vis the s42A reporting officer's position.
- 5 Turning to the specifics of KFO's submission, Counsel respectfully submits that the proposed reversal will cause KFO undue prejudice. KFO's original submission in support of rezoning provided:
 - (a) the specific changes it sought to the proposed District Plan;
 - (b) a Structure Plan and analysis for development of the Brownlie Land;
 - (c) a full s 32 assessment supporting the rezoning proposal;
 - (d) substantive expert technical assessment, including geotechnical, soils, contamination, flooding, economics, infrastructure servicing (and peer review), landscape and transport.
- 6 The reversal would put KFO to the cost of producing further evidence that adds little to the information already submitted, with no response

from the Council until eight weeks later. KFO would then have only two weeks to respond to the Council's position and evidence.

- 7 If the Panel is minded to maintain its proposal to 'reverse' the statutorily established standard approach, Counsel respectfully submits that KFO should be exempt from the proposed timeframe and proposes that the usual timeframe apply in respect of its submission, as follows:
- (a) expert evidence from the Council (s42A Report): 20 working days in advance of the scheduled hearing date;
 - (b) KFO's expert evidence: 10 working days in advance of the scheduled hearing date.
- 8 Accordingly, KFO respectfully requests that:
- (a) the usual approach to s42A Report and evidence is retained; or
 - (b) a step is provided for the s42A Report author to provide an initial position on submissions 20 weeks before the hearing (earlier if possible); and
 - (c) the proposal in Minute 14 does not apply to KFO's submission seeking rezoning to be heard as part of Hearing 15D and instead the usual timeframe applies.

Dated 18 November 2024



M J Doesburg
Counsel for Kiwi Fresh Orange Company Limited