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3 July 2024

Plan Change 29 Hearings Panel
Nelson City Council
PO Box 645
Nelson 7040

Attention: Harry Forrester – Environmental Planning Assistant - Hearings

Email: planchange@ncc.govt.nz

Dear Harry

**ARA POUTAMA AOTEAROA THE DEPARTMENT OF CORRECTIONS: PLAN CHANGE – HOUSING AND HAZARDS – LETTER TO BE TABLED AT HEARING**

Ara Poutama Aotearoa the Department of Corrections (**Ara Poutama**) lodged a submission on Plan Change 29 to the Nelson Resource Management Plan (**NRMP**), being submitter number 204.

Ara Poutama has opted not to attend the hearing on PC29 and requests that in lieu of attendance this letter be tabled for the Hearing Panel's consideration.

Ara Poutama's submission sought the definition of "residential activity" in the NRMP be amended to provide clarity that housing for persons on community-based sentences or orders are captured by the definition, by removing reference to the exclusion for *places where residents are subject to detention* as follows:

> *"Residential activity":*
>
> *means the use of land and buildings by people for living accommodation where the occupiers intend to live at the site for a period of one month or more, and will generally refer to the site as their home and permanent address; and includes accessory buildings and leisure activities.*
>
> *a. accommodation offered to not more than four travellers for a daily tariff in association with a permanent resident as described above, or*
> *b. emergency and refuge accommodation, or*
> *c. accommodation for supervision staff and residents, where residents are subject to care or supervision (e.g. homes for persons with disabilities, and homes for the elderly)~~, but not for places where residents are subject to detention~~.*

The reasons for Ara Poutama's request in its submission were (in summary):

- It is not clear what constitutes *detention* in this definition, as that term is not defined in the NRMP. That creates inherent uncertainty in the kind of accommodation that these exclusions do and do not cover, which can lead to significant issues with, and inconsistencies in, plan administration and interpretation.
- The Council has previously accepted Ara Poutama's position that the proposed use of residential dwellings containing residents on community-based sentences or orders, together with on-site support and supervision was captured by the definition of "residential activity" as residents would not be *subject to detention*.
- Recognising that, the definition of "residential activity" should be amended to reflect the Council's interpretation and provide clarity that housing containing residents on community-based sentences or orders are not *subject to detention*.
- In addition to supporting the proposed PC29 objectives, providing a clear and certain pathway for such housing would also support the outcomes sought by the objectives and policies of the NPS-UD to achieve well-functioning urban environments that enable all people to provide for their social well-being, including by enabling a variety of homes that meet the diverse needs of different households.[1]

Ara Poutama's submission is addressed within the Section 42A Report – Residential and Subdivision, prepared by Coralie Barker, dated 24 June 2024. The Section 42A Report recommends accepting the relief requested by Ara Poutama, by replacing the exclusion for residents *subject to detention* with *custodial facilities* as follows:

*"Residential activity":*

*means the use of land and buildings by people for living accommodation where the occupiers intend to live at the site for a period of one month or more, and will generally refer to the site as their home and permanent address; and includes accessory buildings and leisure activities.*

a. *accommodation offered to not more than four travellers for a daily tariff in association with a permanent resident as described above, or*
b. *emergency and refuge accommodation, or*
c. *accommodation for supervision staff and residents, where residents are subject to care or supervision (e.g. homes for persons with disabilities, and homes for the elderly), but not ~~for places where residents are subject to detention~~.*
d. *<u>custodial facilities</u>*

The Section 42A Report considers that housing residents on community-based sentences is similar to other types of residential living and there are social benefits in allowing these activities to establish in communities. The Report considers replacing the reference to *detention*, with the more specific reference to *custodial facilities* would have the same outcome as the current definition but provides more clarity regarding housing with residents on community-based sentences.

[1] Objective 1 and Policy 1, National Policy Statement for Urban Development, Updated May 2022.

Ara Poutama agrees that the replacement of exclusion for residents *subject to detention* with *custodial facilities* provides clarity that its housing is captured within the definition of "residential activity", while excluding activities of a custodial nature such as prisons. However, it considers for clarity and certainty that the reference to *custodial facilities* would be better added to the end of item (c) in the definition rather than as a separate item (d) to avoid any misinterpretation that *custodial facilities* are a "residential activity" which is not the intention.

Overall, Ara Poutama considers the change to the definition suitably clarifies Ara Poutama's position (previously accepted by Council) that its housing containing residents on community-based sentences or orders, together with on-site support and supervision is a "residential activity". Given the change merely provides clarity as to how the plan is currently interpreted, it agrees with the Council that this change can be made within the scope of PC29.

Ara Poutama appreciates the opportunity to be involved in the PC29 process. Should there be any queries raised in relation to the matters set out in this letter, please contact me via the details provided below.

Yours sincerely
**BOFFA MISKELL LTD**



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