

**BEFORE INDEPENDENT HEARING COMMISSIONERS APPOINTED BY THE
WAIMAKARIRI DISTRICT COUNCIL**

IN THE MATTER OF The Resource Management Act 1991 (**RMA**
or **the Act**)

AND

IN THE MATTER OF Hearing of Submissions and Further
Submissions on the Proposed Waimakariri
District Plan (**PWDP** or **the Proposed Plan**)

AND

IN THE MATTER OF Hearing of Submissions and Further
Submissions on Variations 1 and 2 to the
Proposed Waimakariri District Plan

AND

IN THE MATTER OF Submissions and Further Submissions on the
Proposed Waimakariri District Plan by **Mark**
and Melissa Prosser

**LEGAL SUBMISSIONS FOR MARK AND MELISSA PROSSER
ON BEHALF OF MARK AND MELISSA PROSSER
REGARDING HEARING STREAM 12C**

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INTRODUCTION

- 1 These submissions are filed on behalf of Mark and Melissa Prosser (**Submitter**) in respect of the Stream 12C hearing of submissions on the Proposed Waimakariri District Plan (**Proposed Plan**).
- 2 The Submitter seeks, through its submissions on the Proposed Plan, to rezone its currently rurally zoned land to residential. The Submitter's land is an area of approximately 70 ha at 2 Ashworths Road on the northern boundary of Mandeville (**Site**) The Submitter's land is zoned Rural under the Operative District Plan and Rural Lifestyle Zone (**RLZ**) in the Proposed Plan.
- 3 In its submission on the Proposed Plan, the Submitter sought Large Lot Residential Zoning, which would enable a yield in the order of approximately 115 large lot residential allotments, with subdivision and development guided by an ODP (**Proposal** or **proposed rezoning**).
- 4 Residential zoning of the Submitter's land would give better effect to the National Policy Statement for Urban Development 2020 (**NPS-UD**), and in doing so, better give effect to Part 2 of the RMA, than would the Proposed Plan as notified.
- 5 The evidence provided by the Submitter is listed at **Appendix A**, including evidence filed on 8 July in reply to the s42 Officer Report (**Officer Report**) and in reply to the Council Officer's preliminary response to written questions from the Hearings Panel (**Response Document**).
- 6 The evidence filed by the Submitter shows that there are significant positive consequences that will arise from the proposed rezoning and little, if any, negative consequences. Conversely, the opposite is true in relation to the zoning in the Proposed Plan. Accordingly, the risks of accepting the Submitter's proposed rezoning are much less and will provide greater potential benefits than the zoning in the Proposed Plan.

KEY ISSUES

- 7 The issues to be addressed arising from the Prosser submission are as follows:
 - (a) What is the relationship between the NPS-UD, and CRPS and the Proposed Plan;

- (b) What is the existing environment;
- (c) What are the potential positive consequences of the proposed rezoning compared to the Proposed Plan;
- (d) What are the potential negative consequences proposed rezoning compared to the Proposed Plan;
- (e) Does the proposed rezoning better give effect to the NPS-UD than the Proposed Plan;
- (f) Does the proposed rezoning better give effect to the CRPS than the Proposed Plan; and
- (g) Reply to the Officer Report and the Response Document.

STATUTORY FRAMEWORK FOR PROPOSED PLAN CHANGE DECISIONS

8 The approach to be taken in making decisions on proposed plan changes was summarised in the recent Environment Court decision of *Middle Hill Ltd v Auckland Council*,¹ (following the decision of *Colonial Vineyard Ltd v Marlborough District Council*²), but incorporating the current requirement to give effect to the NPS-UD, as follows:

[29] In summary, therefore, the relevant statutory requirements for the plan change provisions include:

- (e) whether they are designed to accord with and assist the Council to carry out its functions for the purpose of giving effect to the RMA,³*
- (f) whether they accord with Part 2 of the RMA,⁴*
- (g) whether they give effect to the regional policy statement,⁵*
- (h) whether they give effect to a national policy statement,⁶*
- (i) whether they have regard to [relevant strategies prepared under another Act];⁷ and*
- (j) whether the rules have regard to the actual or potential effects on the environment including, in particular, any adverse effects.⁸*

[30] Under s 32 of the Act we must also consider whether the provisions are the most appropriate way to achieve the purpose of the plan change and the objectives of the Auckland Unitary Plan by:

¹ [2022] NZEnvC 162 at [29]

² [2014] NZEnvC 55 at [17]

³ RMA, ss 31 and 74(1)(a)

⁴ RMA, s 74(1)(b)

⁵ RMA, s 75(3)(c)

⁶ RMA, s75(3)

⁷ RMA, s74(2)(b)

⁸ RMA, s76(3)

(a) identifying other reasonably practicable options for achieving the objectives;⁹ and

(b) assessing the efficiency and effectiveness of the provisions in achieving the objectives, including by:¹⁰

i. identifying and assessing the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for:

- economic growth that are anticipated to be provided or reduced;¹¹ and

- employment that are anticipated to be provided or reduced;¹² and

ii. if practicable, quantifying the benefits and costs;¹³ and

iii. assessing the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.¹⁴

- 9 In *Colonial Vineyard Ltd* the Court adopted an approach of identifying and evaluating the potential positive consequences and potential negative consequences of the two different options that were being assessed by the Court as a means to evaluate the risks of acting or not acting in respect of each option.¹⁵ I have adopted that approach in these submissions.

STATUTORY PLANS

- 10 There are a range of statutory documents that need to be considered when assessing the merits of the Proposal, including:

- (a) National Policy Statement for Urban Development (**NPS-UD**);
- (b) National Policy Statement for Highly Productive Land (**NPS-HPL**);
- (c) Canterbury Regional Policy Statement (**CRPS**); and
- (d) Management plans and strategies prepared under other Acts, relevantly:
 - (i) Greater Christchurch Spatial Plan (**GCSP**);
 - (ii) Mahaanui Management Plan; and
 - (iii) Waimakariri Rural Residential Development Strategy (**WRRDS**).

⁹ RMA, s 32(1)(b)(i)

¹⁰ RMA, s 32(1)(b)(ii)

¹¹ RMA, s 32(2)(a)(i)

¹² RMA, s 32(2)(a)(ii)

¹³ RMA, s 32(2)(b)

¹⁴ RMA, s32(2)(c)

¹⁵ *Colonial Vineyard Ltd v Marlborough District Council* [2014] NZEnvC 55 at [68] – [71]

- 11 Each of these statutory documents are discussed in the planning evidence of Mr Allan.¹⁶ The Officer Report and Response advance a different interpretation to that adopted by Mr Allan regarding the NPS-UD, the CRPS and the RRSD. These differing interpretations are addressed below in reply to the Officer report and the Response Document.

WHAT IS THE RELATIONSHIP BETWEEN THE NPS-UD AND THE PROPOSED PLAN?

Hierarchy of planning documents

- 12 In *Environmental Defence Society Inc v New Zealand King Salmon Company Ltd*¹⁷ the Supreme Court confirmed that there is a three-tiered management system – national, regional and district – created by the RMA which established a “hierarchy of planning documents”¹⁸. Subordinate planning documents, such as a district plan, must give effect to National Policy Statements. This is expressly provided for by section 75(3)(a) RMA. The Supreme Court held that-
- (a) the requirement to “give effect to” is a strong directive,¹⁹
 - (b) the notion that decision makers are entitled to decline to implement a National Policy Statement if they consider appropriate does not fit readily into the hierarchical scheme of the RMA,²⁰ and
 - (c) the requirement to “give effect to” a National Policy Statement is intended to constrain decision makers.²¹
- 13 This hierarchy is an important consideration when determining weighting of National Policy Statements and lower order planning instruments, particularly when the national instrument is the most recent in time. In *Bunnings Ltd v Queenstown Lakes District Council*²² the Environment Court discussed the relationship between the Operative District Plan and Proposed District Plan (which each contained “avoid” policies intended to exclude non-industrial activities from industrial zones) and the NPS-UDC 2016. This document has been superseded by the NPS-UD 2020 however the following comments of the Court remain highly relevant:

¹⁶ Planning evidence of Mr Allan at [66]-[90]

¹⁷ [2014] NZSC 38 at [ABOAP 376]

¹⁸ At [ABOAP 381], paragraph [10]

¹⁹ At [80]

²⁰ At [90]

²¹ At [91]

²²[2019] NZEnvC 59

Accordingly we consider it is appropriate to put greater weight on the NPS-UDC and, if necessary, on part 2 of the RMA (especially section 7(b)). The NPS-UDC demands greater weight because it is a later document, is higher in the statutory hierarchy, and has better regard to section 7(b) RMA.²³

Different approach required under the NPS-UD

- 14 In the *Bunnings* case, the Environment Court held that the NPS-UDC required a different approach to deciding whether land may be rezoned for residential development than had been taken up until that time, when it said (our emphasis added):²⁴

[148] The NPS-UDC directs a radical change to the way in which local authorities have approached the issue of development capacity for industry in the past. That has traditionally come close to the "Soviet" model of setting aside X ha for the production of pig iron. The ODP, PDP and even the PORPS all come close to that when they direct that non-industrial activities are to be avoided on land zoned industrial.

[149] In contrast the NPS-UDC's substantive policy PA3(b) requires us to have particular regard to providing choices for consumers. The proposal by Bunnings will do that...

[150] Importantly NPS-UDC policy PA3(b) requires us to promote the efficient use of urban land... We find that on the facts the proposal is a more efficient use of the site than waiting for an industrial activity to occur.

[151] The final "outcomes" policy, PA3(c), requires us to have regard to limiting - as much as possible — the adverse impacts of, in this case the Industrial zoning, on the competitive operation of land markets. The proposed activity is not prohibited, and so the undoubted adverse effect on competition in the land market should be limited by granting consent to this unusual application...

*[155] There are further, major, problems with the Council's approach to PA1 which become obvious when the NPS-UDC is read as a whole. **The spirit and intent of the substantive objectives is to open development doors, not to close them...***

At least sufficient development capacity to meet demand for housing land

- 15 Policy 2 of NPS-UD requires:

Policy 2: *Tier 1, 2, and 3 local authorities, at all times, provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term, and long term.*

- 16 "Short term", "short-medium term", "medium term" and "long term" are defined in NPS-UD as follows:

²³ Supra at [113]

²⁴ at [148] – [155]

- (a) **Short term** mean within the next 3 years;
- (b) **Short-medium term** means within the next 10 years;
- (c) **Medium term** means between 3 and 10 years; and
- (d) **long term** means between 10 and 30 years.

17 It follows that the NPS-UD is future looking and is intended to apply over a time span of at least 30 years. The Council is required by Policy 2 to provide at least sufficient development capacity to meet the expected demand for housing and for business land for the next 30 years.

18 In the recent case of *Re Otago Regional Council*,²⁵ the Central Otago District Council (the **CODC**) acknowledged that, as a tier 3 local authority in terms of NPS-UD, it has obligations under the NPS-UD to provide "sufficient development capacity to meet expected demand for housing and business land in the short, medium and long term", [that] development capacity [being] "sufficient" when, amongst the matters, it is plan-enabled and infrastructure-ready."²⁶ The CODC and the other Tier 1, 2 and 3 local authorities involved in that case sought to change a proposed rule in a regional plan which would have prevented them being granted water takes for municipal supplies for durations of longer than 6 years.

19 The Court said (emphasis added):

[357] The NPS-UD 2020 applies to all local authorities that have all or part of an urban environment within their district or region, and to local authority planning decisions. The NPS-UD 2020, therefore, applies to the Otago Regional Council and the Territorial Authorities.

*[358] While the NPS objectives and most policies are relevant, because the Territorial Authorities are concerned that PC7 inhibits them from fulfilling their statutory obligations, our focus is on pt 3: Implementation. **The Territorial Authorities highlight that local authorities must provide sufficient development capacity to meet expected demand for housing and business land in the short, medium and long term. Development capacity is "sufficient" when, amongst the matters, it is plan-enabled and infrastructure-ready...***

²⁵ [2021] EnvC 164

²⁶ *Re Otago Regional Council* [2021] EnvC 164, at [358]

WHAT IS THE 'EXISTING ENVIRONMENT'?

- 20 In *Queenstown Lakes District Council v Hawthorn Estate Ltd*²⁷ the Court of Appeal held that the definition of "environment" includes the future state of the environment as it might be modified by the implementation of resource consents which have been granted at the time a particular application is considered, where it appears likely that those resource consents will be implemented.²⁸ The distinction drawn by the Court of Appeal in *Hawthorn* is between consented activities that were likely to happen and those that were not.²⁹
- 21 The *Hawthorn* approach to definition of the "environment" was adopted by the High Court in the context of plan changes in *Shotover Park Ltd v Queenstown Lakes District Council*.³⁰ The Court in *Shotover Park* found that the consideration of unimplemented resource consents as forming part of the future environment was also relevant to an evaluation under section 31 and section 32 RMA.³¹
- 22 In this case, the Submitters hold a resource consent to subdivide the Site into 20 x 4 ha lots. Mr Prosser is an experience land developer. He has commissioned a title plan³² as a precursor to securing s223 approval for the subdivision and he intends to develop the site into 4ha lots in the event the rezoning proposal is unsuccessful.³³
- 23 Accordingly, this is a case where the Panel can be virtually certain that the existing consent will be implemented and therefore it should properly form part of the existing environment for the purpose of an effects assessment and the evaluation required under s32 RMA.

WHAT ARE THE POTENTIAL POSITIVE CONSEQUENCES OF THE PROPOSED REZONING COMPARED TO THE PROPOSED PLAN

Increased development capacity for large lot residential housing

- 24 Mr Colegrave's evidence assesses the District's population and housing context, the current state of the rural residential housing market, the economic rationale for the Proposal, and the likely wider economic impacts.

²⁷ *Queenstown Lakes District Council v Hawthorn Estate Ltd* [2006] NZRMA 424 (CA)

²⁸ *Queenstown Lakes District Council v Hawthorn Estate Ltd* [2006] NZRMA 424 (CA) at [84]

²⁹ *Save Kapiti Inc v New Zealand Transport Agency* [2013] NZHC 2104

³⁰ *Shotover Park Ltd v Queenstown Lakes District Council* [2013] NZHC 1712

³¹ *Supra*, at [126]

³² Attachment 1 to the Evidence of Mr Prosser

³³ Evidence of Mark Prosser, paragraph 9

He notes the strong population growth in recent years *is projected to continue well into the foreseeable future, which is causing strong and sustained growth in demand for additional housing. At the same time, housing in the district is becoming increasingly unaffordable*³⁴.

- 25 Mr Colegrave considers the latest available information on the supply of, and demand for, rural residential land in the District is now outdated, and as a consequence the pent-up demand for rural residential living cannot be met due to a lack of available zoned land. Because of the strong growth in Mandeville over the past decade, the established rural residential areas within the MGB are now mostly developed, while demand remains strong. It is on this basis that he concludes there is a pressing need to release additional LLRZ land.³⁵
- 26 Rezoning the Submitter's land to LLRZ would add significantly to Mandeville's development capacity which will keep pace with demand for rural residential living in the District generally and the established Mandeville settlement specifically.
- 27 In contrast, Mr Colegrave's evidence is that retaining rural zoning for the Submitter's land would drive up the price of LLRZ allotments and undermine affordability³⁶. The deficit in rural residential capacity would result in buyers who are unable to attain LLRZ land, instead opting for less-preferred larger (4ha) lots, leading to sub suboptimal land utilisation.³⁷

More choice and improved affordability of housing

- 28 One of the minima of a well-functioning urban environment is that it enables a variety of homes that meet the needs, in terms of type, price, and location, of different households.³⁸
- 29 The Proposal would enable a range of allotment sizes (2,500m² through to 10,000m²)³⁹ providing increased large lot residential diversity.

³⁴ Economic Evidence of Mr Colegrave, para 11

³⁵ Economic Evidence of Mr Colegrave, paras 12-15

³⁶ Economic Evidence of Mr Colegrave, para 54

³⁷ Economic Evidence of Mr Colegrave, para 82

³⁸ NPS-UD Policy 1(a)

³⁹ Fraser Miller supplementary evidence dated 8 July, Graphic Attachment, Indicative Lot Layout Plan at Sheet 24

30 In *Colonial Vineyard*,⁴⁰ the Environment Court gave this analysis of the relationship between shortage of housing supply and housing prices (my emphasis):

4.3 Residential supply and demand

[98] Prior to 2011, there was a demand for between 100 and 150 houses a year and an availability of approximately 1,000 greenfield sites. Based on that, counsel for the Omaka Group submitted there is no evidence that the alleged future shortfall will materialise before further greenfield sites are made available. We are unsure what to make of that submission because counsel did not explain what he meant by "shortfall". There is not usually a general shortfall. **Excess demand is an excess of a quantity demanded at a price. In relation to the housing market(s), excess demand of houses (a shortfall in supply) is an excess of houses demanded at entry level and average prices over the quantity supplied at those prices.**

[99] Mr Hayward gave evidence for CVL that there has been "a subnormal amount of residential land coming forward from residential development in Marlborough". He also stated that there was an imbalance between supply and demand, with a greater quantity demanded than supply. Further, none of the witnesses disputed Mr Hawes' evidence that the Strategies are clear that there is likely to be a severe shortfall of residential land in Blenheim if more land is not zoned for that purpose.

[100] Plan Changes 64 to 71 would potentially enable more residential sections to be supplied to the housing market. However, in view of the existence of submissions on these plan changes, we consider the alternatives represented by those plan changes are too uncertain to make reasonable predictions about.

[101] **We find that one of the risks of not approving PC59 is that the quantity of houses supplied in Blenheim at average (or below) prices is likely to decrease relative to the quantity likely to be demanded. That will have the consequence that house prices increase.**

31 Against the backdrop of predicted large lot residential land shortfall within the district and particularly at Mandeville, it seems likely that one of the risks of not approving the proposed rezoning is house price increase due to shortage of supply. Conversely, granting the proposed rezoning is likely to have a positive influence on affordability of housing at Mandeville. This point is discussed in further detail below in reply to the Officer Report and response Document.

Compact large lot residential urban form that reduces sprawl and demand for 4 ha subdivision

32 Consistent with the relevant objectives and policies in the Proposed District Plan, particularly those that relate to Urban Growth⁴¹, the proposed rezoning

⁴⁰ [2014] NZEnvC 55 at [98] – [101]

will be located adjacent to existing large lot residential zone, the ODP will promote a coordinated and compact urban form. The houses will be located within a 1km-2km radius of the Mandeville Village Centre, supporting the township services/amenities and facilities.

- 33 The proposed rezoning is consistent and compatible with the established large lot character of the district's largest settlement and provides a planning framework that enables a large lot residential development outcome that maintains the amenity of adjoining rural residential, semi-rural and rural properties.
- 34 The ODP has been designed to ensure LLRZ-enabled development integrates with neighboring development, with the nature and scale of development being generally consistent with that already established in the settlement. A larger lot overlay along the Site's southern boundary (San Dona) will provide an appropriate interface with the surrounding pattern of development, whilst also delivering a greater variety of lot sizes. Boundary treatment stipulated on the ODP is commensurate with surrounding land use and character, be it rural residential development to the south and west, or semi-rural / rural land use to the east and north.
- 35 The Proposal will deliver consolidated and integrated large lot residential development with the existing (rural residential) urban environment, being a logical extension of the established Mandeville settlement and providing pedestrian, cycling and vehicular connections through the site, to the adjacent development to the west and to the Mandeville Centre Zone.

Efficient use of infrastructure

- 36 The engineering evidence for the Submitter demonstrates that the Site can be appropriately served with respect to flooding and stormwater⁴², potable water and wastewater,⁴³ and transportation.⁴⁴
- 37 As mentioned by Mr Allan, the Site's environmental conditions do not preclude the Proposal from a servicing perspective. The technical evidence outlines the options available to feasibly service development to meet

⁴¹ Proposed Plan Objectives and Policies, including Policy UFD-P3

⁴² Stormwater and Flooding Evidence of Mr Delagarza dated 5 March 2024 at [35]-[40] and his Supplementary Evidence dated 8 July 2024 at [17]-[21] and [28]-[31]

⁴³ Infrastructure Evidence of Mr Sookdev dated 5 March 2024 at [28]-[48] and [49]-[66] and his Supplementary Evidence dated at 24 April 2024.

⁴⁴ Transport Evidence of Mr Smith at [49]

stormwater management, water supply and waste water requirements. The detailed design of three-waters infrastructure will be appropriately addressed through the subdivision consent process and in consultation with the Council's development engineers.⁴⁵

38 At any rate, the NPS-UD puts the onus firmly on the Council to provide, at all times, at least sufficient development capacity to meet expected demand for housing over the short term, medium term, and long term.⁴⁶

39 "Development capacity" means the capacity of land to be developed for housing or for business use, based on (my emphasis):

(a) *the zoning, objectives, policies, rules, and overlays that apply in the relevant proposed and operative RMA planning documents; and*

(b) ***the provision of adequate development infrastructure to support the development of land for housing or business use***

40 "Development infrastructure" means the following, to the extent they are controlled by a local authority or council controlled organisation (as defined in section 6 of the Local Government Act 2002):

(a) ***network infrastructure for water supply, wastewater, or stormwater***

(b) *land transport (as defined in section 5 of the Land Transport Management Act 2003).*

41 It is simply not valid for the Council to say, in response to a proposed rezoning which will make a substantial contribution towards meeting the shortfall of supply in relation to housing demand, and which stacks up in all other ways, that "there is no current infrastructure capacity." The Council is required by the NPS-UD to provide, at all times, the infrastructure to meet the 30 year demand for housing.

42 It has the option, of course, of using development contribution mechanisms to help meet the costs of providing the infrastructure. This approach is contemplated by the Proposed Plan.⁴⁷ To the extent that required infrastructure is not available, the Submitters are open to funding the required upgrades to ensure that the Site is serviced to an acceptable level.

⁴⁵ Planning evidence of Mr Allan dated 24 April at [48]-[49]

⁴⁶ NPS-UD Policy 2, definitions, and Clauses 3.2, 3.4, 3.5

⁴⁷ As contemplated by UFD-P3(2)(d)

Biodiversity gains

43 The ecological evidence for the Submitter contains recommendations for biodiversity gains. In particular, Mr Payne recommends that the waterways and springs on the Site be protected and enhanced by appropriate indigenous riparian planting.⁴⁸ The landscape evidence recommends that indigenous plantings occur along the boundaries of the Site.⁴⁹ Each of these recommendations are adopted by the ODP.⁵⁰

WHAT ARE THE POTENTIAL NEGATIVE CONSEQUENCES OF THE PROPOSED REZONING COMPARED TO THE PROPOSED PLAN

Loss of highly productive soils

44 Loss of highly productive soils does not preclude approval of the Proposal for three discrete reasons.

45 First, the NPS-HPL does not apply to RLZ. This matter is discussed in legal submissions filed on behalf of the Submitter and Mike Greer Homes NZ Ltd dated 2 October 2023.⁵¹ In summary, the NPS-HPL does not apply to the Proposal because the Site is zoned RLZ in the PWDP. Under clause 3.5(7)(b)(i) NPS-HPL, land identified as Highly Productive Land that is proposed to be rezoned rural lifestyle zone is exempt from the NPS-HPL. This approach is supported by Mr Buckley's view expressed in his memorandum to the Hearings Panel on this topic.⁵² It is also consistent with the Ministry for the Environment publication entitled *Guide to Implementation of the NPS-HPL*.

46 Further, the Submitter has commissioned a site-specific soil analysis which illustrates that only a small portion (11.8ha) of the Site is highly productive land.⁵³ Therefore the loss of highly productive land from the proposed rezoning of the Site to LLRZ is actually minimal. Further, Mr Ford concluded that the 11.8ha of land cannot be considered as commercially viable, and that the loss of productive farmland as a result of the Proposal will be minimal.⁵⁴

⁴⁸ Ecological evidence of Mr Payne date 5 March 2024 at [11]-[15]

⁴⁹ Landscape Evidence of Mr Miller dated 5 March 2024 and illustrated at Graphic Attachment Sheets 22

⁵⁰ Landscape Supplementary Evidence of Mr Miller dated 8 July 2024 Graphic Attachment Sheet 21

⁵¹ Refer to legal submission on the NPS-HPL filed on behalf of the Submitter and Mike Greer Homes NZ Ltd dated 2 October 2023 at [12]

⁵² Memorandum on the NPS-HPL on 22 July 2023 (amended on 26 July 2023)

⁵³ Soil Evidence of Mr Hainsworth at [8]

⁵⁴ Agricultural Productivity Evidence of Mr Ford at [75] and [80]

- 47 Finally, the Site is virtually certain to be subdivided into 20x 4 ha blocks pursuant to RC205106 and RC205107 if the Proposal is not approved. Fragmentation of land caused by subdivision will make the new 4 ha lots even less viable for productive land use.

Summary of positive and negative consequences

- 48 In summary to this point, the Proposal will generate significant positive consequences that cannot be realised under the Proposed Plan and little, if any, negative consequences will arise.
- 49 Further, none of the above biodiversity gains will be realised under the Proposed Plan if the Site remains RLZ and is subdivided into 20 x 4 ha lots. The same applies to the proposed sealing of Ashworths Road and the new pedestrian/cycleway connection from the Site along Dawsons Road to the Mandeville commercial centre. Provision of these features is not required under the 4 ha subdivision consent.

DOES THE PROPOSED REZONING BETTER GIVE EFFECT TO THE NPS-UD THAN THE PROPOSED PLAN?

- 50 All district plans must give effect to the NPS-UD, and in doing so, they give effect to the purpose and principles of the RMA.

Objectives 1 to 8, and policies 1,2,6,8,9 and 10 of the NPS-UD

- 51 These objectives and policies apply to all local authorities and must be given effect to in all district plans. The proposed rezoning sought by the Submitter achieves these objectives and implements these policies better than the Proposed Plan, in that it:
- (a) will better provide a well-functioning urban environment at Mandeville, enabling the people who live there, and in the wider community of Waimakariri, to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future;⁵⁵
 - (b) will improve housing affordability by supporting competitive land and development markets;⁵⁶
 - (c) will enable more people to live in an established urban environment that is near employment opportunities (proximity to the main centres

⁵⁵ NPS-UD, Objective 1

⁵⁶ NPS-UD, Objective 2

of Rangiora, Kaiapoi and Christchurch City) and connections with the public transport network, and in an area experiencing high demand for rural residential housing;⁵⁷

- (d) will enable the established rural residential settlement of Mandeville to continue to develop in response to the recognised demand for additional rural residential land, providing diversity and choice in the housing market;⁵⁸
- (e) The principles of the Treaty of Waitangi have been taken into account in the proposed rezoning;⁵⁹
- (f) Represents a significant increase in housing development capacity within the urban environment of both Mandeville and Greater Christchurch. It is required to address an identified shortfall in rural residential land supply, and is in a strategically preferred location adjacent to an established settlement. LLRZ-enabled development of the Site can be appropriately integrated with infrastructure planning and funding decisions;⁶⁰
- (g) The Council will be using robust and recent information about its urban environments to inform its planning decisions;⁶¹
- (h) by enabling a more compact urban form, near to employment opportunities, the rezoned urban environment supports reductions in greenhouse gas emissions and is resilient to current and future effects of climate change;⁶²
- (i) The rezoning contributes to a well-functioning urban environment-
 - (i) Having and enabling a variety of homes that meet the needs, in terms of type, price and location of different households;⁶³

⁵⁷ NPS-UD, Objective 3(a), (b) and (c)

⁵⁸ NPS-UD, Objective 4

⁵⁹ NPS-UD, Objective 5 and Policy 9

⁶⁰ UD, Objective 6(a), (b), and (c)

⁶¹ NPS-UD, Objective 7

⁶² NPS-UD, Objective 8(a) and (b), Policy 1(e) and (f) and Policy 6(e)

⁶³ NPS-UD, Policy 1(a)(i)

- (ii) Having good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of access to public transport;⁶⁴
 - (iii) Supporting and limiting as much as possible adverse impacts on, the competitive operation of land and development markets;⁶⁵
 - (iv) supporting reductions in greenhouse gas emissions compared to alternative locations for LLRZ in the district⁶⁶; and
 - (v) being resilient to the likely current and future effects of climate change⁶⁷
- (j) The rezoning may involve changes to the character of the rezoned area and the outlook from adjoining rural residential, semi-rural and rural properties, however the nature and character of development will be consistent and compatible with the that of the established settlement at Mandeville.⁶⁸
 - (k) The rezoning will contribute to the Council meeting the requirements of the NPS-UD to provide or realise development capacity.⁶⁹
 - (l) The rezoning is responsive to a proposed plan submission that will add significantly to development capacity and contribute to a well-functioning urban environment, even if out of sequence with planned land release.⁷⁰

52 Policies 2 and 10 apply to tier 1, 2 and 3 local authorities. Those policies will be better implemented by the proposed rezoning, than by the Proposed Plan as notified, in that the rezoning:

⁶⁴ NPS-UD, policy 1(c) – refer to Planning Evidence in Chief of Mark Allan at Attachment 4 (page 39)

⁶⁵ NPS-UD, Policy 1(d)

⁶⁶ NPS-UD, Policy 1(e)

⁶⁷ NPS-UD, Policy 1(f)

⁶⁸ NPS-UD, Policy 6(b)

⁶⁹ NPS-UD, Policy 6(d)

⁷⁰ NPS-UD, Policy 8

- (a) will better help the Council to provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term and long term; and⁷¹
- (b) will result from engagement with the development sector to identify significant opportunities for urban development.⁷²

DOES THE PROPOSED REZONING BETTER GIVE EFFECT TO THE CANTERBURY REGIONAL POLICY STATEMENT THAN THE PROPOSED PLAN?

53 The rezoning also gives better effect to the Canterbury Regional Policy Statement (**CRPS**) than the Proposed Plan as notified.

54 The Proposed rezoning better achieves development which is located and designed so that it functions in a way that:⁷³

- (a) achieves consolidated, well designed and sustainable growth in and around existing urban areas as the primary focus of accommodating the region's growth; and
- (b) enables people and communities, including future generations, to provide for their social, economic and cultural well-being and health and safety, and which:
 - (i) helps to provide sufficient housing choice to meet the region's housing needs;
 - (ii) minimizes energy use and/or improves energy efficiency;
 - (iii) is compatible with, and will result in continued safe, efficient and effective use of regionally significant infrastructure;
 - (iv) avoids adverse effects on significant natural and physical resources; and
 - (v) avoids conflicts between incompatible activities.

55 The Proposal achieves consistency with Chapter 6 for the reasons set out in the paragraphs below.

56 The proposed rezoning better achieves recovery, rebuilding and development within Greater Christchurch through a land use and infrastructure framework that:⁷⁴

⁷¹ NPS-UD, Policy 2

⁷² NPS-UD, Policy 10(c)

⁷³ CRPS Objective 5.2.1

- (a) Protects and enhances indigenous biodiversity and public space;
 - (b) maintains or improves the quantity and quality of water in groundwater aquifers and surface waterbodies, and quality of ambient air;
 - (c) maintains the character and amenity of rural areas and settlements;
 - (d) protects people from unacceptable risk from natural hazards and the effects of sea-level rise;
 - (e) integrates strategic and other infrastructure and services with land use development, appropriate upgrade, and future planning of strategic infrastructure and freight hubs; and
 - (f) optimizes use of existing infrastructure.
- 57 The Proposal will achieve a consolidated urban form and settlement pattern, and provide sustainable growth, in the District's largest established rural residential area.⁷⁵
- 58 While the Site is not identified in the WRRDS, the Proposal is otherwise consistent with Policy 6.3.9 regarding rural residential development in Greater Christchurch, as:⁷⁶
- (a) the Site is outside the greenfield priority areas, Future Development Areas and existing urban areas identified on Map A (sub-clause 2), LLRZ-enabled development is able to be appropriately serviced (sub-clause 3) and access is available to a sealed Local Road (sub-clause 4);
 - (b) it does not give rise to significant reverse sensitivity effects with adjacent rural activities (5(g));
 - (c) it avoids significant natural hazard areas and significant adverse ecological effects, and supports the protection and enhancement of ecological values (5(h) and (i)); and
 - (d) it is able to be integrated into and consolidated with the adjacent Mandeville settlement (5(k));

⁷⁴ CRPS Objective 6.2.1 (2),(5),(6),(7),(8),(9),(11) – policy 6.3.9, which relates specifically to rural residential development in Greater Christchurch, provides an exemption to the “avoid requirement of 6.2.1(3) (refer to Planning Evidence in Chief of Mark Allan at Attachment 5 (page 43))

⁷⁵ CRPS Objective 6.2.2(6), Objective 6.3.3, Policy 6.3.2 – refer Planning Evidence in Chief of Mark Allan, page 24, paragraph 76(b)

⁷⁶ Planning Evidence in Chief of Mark Allan, page 24, paragraph 76(c)

- 59 The ODP sets out an integrated design for subdivision and land use, and provides for the long-term maintenance of rural residential character.⁷⁷
- 60 The LLRZ provisions ensure the Site will not be regarded as in transition to full urban development.⁷⁸
- 61 Policy 6.3.9 of the CRPS, with its reliance on rural residential development strategies prepared by local authorities, takes the outdated approach described by the Environment Court in *Bunnings*⁷⁹ (discussed above), namely, the “Soviet” model of setting aside X ha for the production of pig iron. The Court in that case said that the Proposed Otago Regional Policy Statement, the Operative District Plan and the Proposed District Plan took that mistaken approach when they directed that non-industrial activities are to be avoided on land zoned industrial, and that:

“The NPS-UDC directs a radical change to the way in which local authorities have approached the issue of development capacity for industry in the past.”

It also said that:⁸⁰

“The spirit and intent of the substantive objectives [of the NPS-UD] is to open development doors, not to close them...”

The Court held that it was more important to give effect to the NPS-UD, rather than the inferior regional and district documents:⁸¹

Accordingly we consider it is appropriate to put greater weight on the NPS-UDC and, if necessary, on part 2 of the RMA (especially section 7(b)). The NPS-UDC demands greater weight because it is a later document, is higher in the statutory hierarchy, and has better regard to section 7(b) RMA.

- 62 The NPS-UD contemplates this situation of a RPS becoming outdated and acting as a closed door to development. Policy 8 provides a way around, so that-

“local authority decisions affecting urban environments are responsive to plan changes that would add significantly to development capacity and contribute to well-functioning urban environments, even if the development capacity is:

- (a) *Unanticipated by RMA planning documents; or*
- (b) *Out of sequence with planned land release”.*

⁷⁷ CRPS Objective 6.3.9.6 – refer Planning Evidence in Chief of Mark Allan, page 24, paragraph 76(d)

⁷⁸ CRPS Objective 6.3.9.7 – refer Planning Evidence in Chief of Mark Allan, page 24, paragraph 76(e)

⁷⁹ [2019] NZEnvC 59 at [148]

⁸⁰ *Supra* at [155]

⁸¹ At [113]

REPLY TO OFFICER REPORT AND RESPONSE DOCUMENT

63 The Officer Report and the Response Document express numerous points in opposition to the Prosser Proposal (and indeed many other LLRZ submissions). For convenience these have been organised under three broad topics below followed by the Submitter's reply in respect of each topic.

Interpretation and application of Statutory Documents

NPS-UD – should LLRZ be considered urban environment?

64 The Officer Report initially reached the conclusion that "the LLRZ is 'urban'".⁸² Somewhat belatedly, this view changed in the Response Document which states:⁸³

With Respect to the NPS-UD definition of "urban environment" and the interpretation of "urban in character", I do not consider that LLRZ is predominantly urban in character...

65 The Submitters do not agree with this interpretation of the NPS-UD, particularly with respect to Mandeville. The NPS-UD defines an "urban environment" as meaning any area of land that is or is intended to be, predominantly urban in character and part of a housing and labour market of at least 10,000 people.

66 The NPS-UD does not elaborate on the phrase "predominantly urban in character" "Predominantly" means "mainly", "strongest", or "prevailing"^{84, 85, 86}. "Character" refers to the collective "qualities" or "characteristics"⁸⁷ or "features"⁸⁸ that distinguish a thing.

67 Giving the phrase its plain and ordinary meaning, considered as a whole, it describes an area of land that has the main or prevailing features and characteristics of an urban environment.

68 The evidence filed in support of the Proposal, supports an interpretation whereby Mandeville is considered to be an environment that is predominantly urban in character.

⁸² Officer Report, para 71

⁸³ Response Document, page 5

⁸⁴ *The Concise Oxford Dictionary*, predominant: 2 being the strongest or main element.

⁸⁵ *Wakitipu Equities Ltd v Queenstown Lakes District Council [2023] NZEnvC 188* at [18]

⁸⁶ Oxford English Dictionary (online), predominant – quick search results

⁸⁷ *The Concise Oxford Dictionary*, character: the collective qualities or characteristics... that distinguish a person or thing.

⁸⁸ Oxford English Dictionary (online), character: to distinguish by particular marks, signs, or features; to stamp, mark.

69 Mr Allan’s evidence assesses the issue of whether LLRZ is urban. Mr Allan makes the important point that determination as to whether an area of land (regardless of size) is ‘predominantly urban in character’ is not simply a factor of density of development enabled by a particular zone.⁸⁹

70 Mr Allan considers that the Mandeville settlement is urban for the following reasons:⁹⁰

- *it has the largest population (1,920 in 2023 according to Stats NZ) of the District’s LLRZ settlements within the Greater Christchurch sub-region;*
- *it is the District’s only LLRZ settlement served by a commercial hub (Mandeville Village Shopping Centre) given Local Centre Zone status in the PWDP;*
- *the supplementary evidence of Mr Miller⁹¹ concludes that Mandeville is predominantly urban in landscape character based on several factors including its context and location; built form character and patterns, boundary and edge treatment and overall landcover; and*
- *it is serviced by reticulated water and wastewater networks, which is an indicator of urban development.*

71 Additional urban features are highlighted in other evidence for the Submitters:

(a) Mr Prosser (paragraph 18 – 23) identifies the range of services currently available at Mandeville. The businesses and organisations include eateries, sports grounds and clubs, an early learning centre, a supermarket, shuttle service and a fuel station.⁹² The evidence of

(b) Mr Pringle (paragraph 18 – 21) refers to the growth of the Mandeville Village retail centre since its inception, due to the quality of the retail and services provided. Recent additions include EV charging stations, Mandeville Hire and a carpark extension at the retail village.⁹³

72 More broadly, Mr Allan analyses how the term LLRZ is addressed in various planning instruments as follows:⁹⁴

- (a) *NPS-UD Clause 3.35 Development outcomes for zones – the PWDP describes the purpose of LLRZ “is to provide residential living opportunities for predominantly detached residential units on lots larger*

⁸⁹ Planning Supplementary Evidence of Mark Allan at [38]-[43]

⁹⁰ Evidence of Mark Allan, paragraph 40.

⁹¹ Para 56, Supplementary evidence of Fraser Miller

⁹² Evidence of Mark Prosser, paragraph 18 (a)-(s).

⁹³ Land Market Evidence of Mark Pringle, paragraph 19.

⁹⁴ Planning Supplementary Evidence of Mark Allan at [40](b)-(f)

than other Residential Zones". This is reinforced by LLRZ-O1 and the supporting policies (e.g. LLRZ-P1) and rules (e.g. LLRZ built form standards), thus establishing the predominant low-density residential character as the development outcome intended for LLRZ, as required by clause 3.35(1)(a) and (b), NPS-UD.

- (b) National Planning Standards (NPS) – LLRZ is defined as "areas used predominantly for residential activities and buildings such as detached houses on lots larger than those of the low density residential and general residential zones, and where there are particular landscape characteristics, physical limitations or other constraints to more intensive development". Use of the term 'residential' in the zone name places LLRZ in the suite of residential zones identified in the NPS, which I consider is an intentional naming convention to clearly distinguish the predominant purpose of zones, i.e. residential, rural, commercial.*
- (c) NPS-HPL – while this document is not directly relevant to these proceedings, it does include LLRZ in its definition of 'urban'.*
- (d) CRPS – read in context, the definitions of 'urban', 'urban activities', 'rural residential activities' and 'rural activities' place LLRZ-enabled development and activity at the 'urban' end of the spectrum.*
- (e) PWDP – defines 'urban environment' as per the NPS-UD, and also specifically includes "the small towns of...Mandeville, and all Large Lot Residential Zone areas..."*

73 It's apparent from the above that none of the various planning definitions preclude a conclusion that LLRZ is urban and, further, that some definitions explicitly include LLRZ as an urban environment (e.g. NPS-HPL and PWPD).

74 In addition, it is noted that:

- (a) Policy UFD-P3 refers to "Identification/location and extension of Large Lot residential Zone Areas" It's noteworthy that this policy sits within the Strategic Directions Chapter dealing with Urban Form and Development.*
- (b) Policy 6.3.3 CRPS requires that development occur in accordance with outline development plans. This policy applies to rural residential development, as well as greenfield priority areas of Future Development Areas. The explanation is clear that this policy is intended to apply to urban development (emphasis added):*

*Outline development plans provide a mechanism for integrating **urban development** with infrastructure, making the best use of existing infrastructure,*

*and identifying and providing for the additional infrastructure required to meet the needs of incoming residents and businesses. They also provide the mechanism for **integrating new development with existing urban areas**, and of achieving the type and form of development necessary to accommodate **urban growth** in a sustainable way.*

- 75 Given the way LLRZ is applied in the statutory documents and the specific urban features of Mandeville detailed in the evidence of Messrs. Allan, Miller, Prosser and Mr Pringle, there can be little doubt that Mandeville qualifies as an urban environment for the purposes of the NPS-UD.

CRPS – does policy 6.3.9 preclude LLRZ that is not identified by the WRRDS?

- 76 The Officer Report relies on caselaw authority in support of the weight given to the WRRDS through policy 6.3.9. In particular, it states that:⁹⁵

It should be noted that the RRDS, as non-statutory document developed under the LGA (2002), has been given statutory status through Policy 6.3.9 of the RPS. This was highlighted by the Environment Court in the decision of Richard Black vs Waimakariri District Council (Appendix O).

- 77 The Officer Report analysis of the *Black v Waimakariri District Council*⁹⁶ decision is incorrect; that decision issued in 2014 was critically informed by s123 of the Canterbury Earthquake Recovery Act which directed decision-makers to implement the Land Use Recovery Plan (**LURP**), which gave the Court little choice but to implement policy 6.3.9. The Court noted that:⁹⁷

"It is perhaps unfortunate that the importance of the RRDP has been significantly elevated by a combination of 232 of the CERA and policy 6.3.9 of the LURP, given that the RRDP was never intended as a statutory instrument under the RMA, was never put through the Schedule 1 RMA process, and is somewhat imprecise and wordy in its structure, however such is the nature of emergency legislation..."

- 78 Further, the court noted that in the absence of LURP and CERA provisions, the outcome would have been a fine call based on environment effects.⁹⁸

- 79 There are several other key points to observe with respect to the CRPS. First, the CRPS has not been updated to reflect the most recent iteration of the NPS-UD (May 2020). So considerable care needs to be taken when assessing CRPS provisions that appear to cut across the grain of the NPS-UD.

⁹⁵ Officer Report at [55]

⁹⁶ *Black v Waimakariri District Council [2014] NZEnvC 119*

⁹⁷ Supra at [76]

⁹⁸ Supra at [79]

- 80 In my view policy 6.3.9 is one of these provisions insofar as it seeks to limit large lot residential growth in the Waimakariri District to locations identified in the WRRDS. The WRRDS was prepared by the Council in 2019. At that time, the NPS-UD 2020 was not in force and therefore the Council did not consider the need to provide sufficient development capacity for rural residential land supply when it prepared the WRRDS.
- 81 The problem is illustrated in the Response Document which states (in response to a Panel question about paragraph 195 of the Officer Report), that the WRRDS looked at “broad suitable locations” for rural residential development. The approach adopted was to assess technical issues such as flood hazard, servicing, transportation, and soil conditions.⁹⁹ No reference is made to rural residential development capacity. Even if it had, the evidence of Mr Colegrave is the amount of large lot residential growth provided by the WRRDS is out of date (see below).
- 82 Further, the Officer Report and the Response Document misinterpret policy 6.3.9. Identification of land within the WRRDS is a requirement of the policy, but that should not be read as an absolute veto on other land that is not included in the WRRDS. The more nuanced approach adopted by Mr Allan is to be preferred. Mr Allan acknowledges that the Proposal may not be fully consistent with policy 6.3.9 but notes that the WRRDS is already five years old and that strict application of the WRRDS has the effect of constraining rural residential land supply.¹⁰⁰ As mentioned by Mr Allan, the Proposal aligns with the locational and design intentions of the relevant sub-clauses in policy 6.3.9¹⁰¹ and is broadly consistent with the key outcomes anticipated by the CRPS.¹⁰²
- 83 Accordingly, when the CRPS is assessed overall and taking into account the matters noted above, policy 6.3.9 does not operate to preclude the Proposal even though the Site is not identified in the WRRPS.

WRRDS – how much weight should be given to the WRRDS?

- 84 The Officer report recommends against the Proposal (and many other LLRZ submissions) on the basis that the Site is not identified in the WRRDS.

⁹⁹ Response Document at pages 6 and 7

¹⁰⁰ Planning Evidence of Mr Allan at [83]

¹⁰¹ Planning Supplementary Evidence of Mr Allan at [27] and [28]

¹⁰² Planning Evidence of Mr Allan at [77]

However the Officer Report stance regarding WRRDS is at times ambivalent and/or inconsistent. For example, the Officer Report acknowledges that the WRRDS “was generally limited in scope”¹⁰³. Elsewhere the Officer Report supports LLRZ regarding a Site not included in the WRRDS¹⁰⁴, and recommends against LLRZ on other Sites even though the land in question has been identified in the WRRDS.¹⁰⁵

- 85 The WRRDS is heavily reliant on the quality of technical assessments undertaken to inform its preparation. Such assessments can be rendered inaccurate and/or unreliable if superseded by more detailed and thorough technical assessments commissioned in the context of the current RMA plan review process. That’s precisely what has occurred here as demonstrated by the expert evidence filed on behalf of the Submitters. Simply put, the technical constraints relied on by the Council to exclude the Site from the WRRDS can be overcome.
- 86 In addition, UFD-P3 expressly contemplates new large lot residential development other than LLRZ identified in the WRRDS provided that such new development is located in accordance with the requirements of UFD-P3(2)(a)-(e).
- 87 Further Mr Colegrave’s supplementary evidence highlights the recalibration of household needs and preferences caused by the C-19 pandemic which has resulted in the rapid growth of working from home and hybrid working. This in turn has led to demand for rural residential living likely to be much greater than anticipated previously by the WRRDS.¹⁰⁶
- 88 For the reasons discussed above, limited weight should be given to the WRRDS. In my submission the PWDP process provides an opportunity for re-evaluation of the WRRDS in light of changes that have occurred since it was adopted by the Council in 2019.

Is more large lot residential capacity required?

- 89 The Officer Report and Response Document approach is to constrain supply of large lot residential to land identified in the WRRDS. To the extent that this reduces supply, the reporting officer contends that the Council is not

¹⁰³ Officer Report at [195]

¹⁰⁴ Supra at [272]

¹⁰⁵ Supra at [201], [212] and [268]

¹⁰⁶ Economic Supplementary Evidence of Fraser Colegrave at [18]-[21]

required to provide development capacity at a specific location or for a specific property size.¹⁰⁷ The solution to any undersupply of LLRZ is to ‘mop up’ any surplus demand for large lot residential development by providing for growth through greenfield MDRZ and intensification in the district’s main centres.

90 This approach is inconsistent with NPS-UD requirements.¹⁰⁸ It also appears to be out-of-step with caselaw. The Environment Court in the above-mentioned *Middle Hill*¹⁰⁹ decision summarised the NPS-UD as follows (emphasis added):

*[33] The National Policy Statement on Urban Development 2020 (NPS-UD) is a document to which the plan change must give effect. The NPS-UD has the broad objective of ensuring that New Zealand's towns and cities are well-functioning urban environments that meet the changing needs of New Zealand's diverse communities. Its emphasis is to direct local authorities to enable greater land supply and ensure that planning is responsive to changes in demand, **while seeking to ensure that new development capacity enabled by councils is of a form and in locations that meet the diverse needs of communities** and encourage well-functioning, liveable urban environments...*

91 The evidence of Mr Pringle identifies the particular features of Mandeville that attract prospective purchasers and the level of demand for large lot residential in this location. This is a “major point of difference” for buyers looking in the Ohoka / Mandeville area because these features are not available within MDRZ zones in large urban centres.¹¹⁰

92 This point is supported by Mr Colegrave, who states in his supplementary evidence that:¹¹¹

...the large lot residential zones within Waimak do indeed cater for different “localities and markets” that the more obviously urbanised main centres of the district, so sufficient capacity must be provided for LLR living as well as medium density and general residential living zones to properly satisfy NPS-UD requirements.

93 Mr Colegrave’s supplementary evidence also addresses sufficiency of capacity to meet demand for large lot residential living in the district. In summary, Mr Colegrave’s evidence is that:

- Both Mr Colegrave and Mr Yeoman agree that a shortfall exists in the medium term;¹¹²

¹⁰⁷ Officer Report at [452] and Response Document at page 36

¹⁰⁸ See for example, Objective 3(c), Policy 1(a)(i), Policy 2, clause 3.2. clause 3.24 and clause 3.25

¹⁰⁹ [2022] NZEnvC 162

¹¹⁰ Land agent Evidence of Mark Pringle at [10]-[22]

¹¹¹ Economic Supplementary Evidence of Fraser Colegrave at [14]

- The shortage will be considerably larger than the 150-250 in the medium term estimated by Mr Yeoman;¹¹³ and
- Based on his calculations, there is likely to be a shortfall of 416 large lot residential dwellings in the medium term.¹¹⁴

94 Mr Colegrave also records his view that the Prosser rezoning proposal represents a significant increase in development capacity, including for the purposes of Object 6 and Policy 8 of the NPS-UD.¹¹⁵

95 In my submission, large lot residential living is a distinctive residential typology that appeals to a specific market in specific locations. It follows that the “significant and prolonged shortage of LLR land”¹¹⁶ identified by Colegrave cannot be supplied by provision of higher density development in large centres such as Rangiora and Kaiapoi.

Is the Site suitable for large lot residential development?

96 The Officer Report also recommends rejection of the Proposal on the basis that the Site is not suitable for large lot residential development for reasons relating to:

- (a) Transport infrastructure;
- (b) Wastewater infrastructure and water supply; and
- (c) Flood management and ground water resurgence.

97 Supplementary evidence has been filed in regarding each of these matters that responds to and resolves the constraints identified by the Officer Report.¹¹⁷

98 The Officer Report also object to the Proposal on basis that a report prepared by Becca that shows greenhouse gas private transport emissions from Mandeville are higher than from Rangiora or Kaiapoi (Becca Report). However the Becca Report¹¹⁸ was prepared for Stream 12D regarding proposed MDR

¹¹² Evidence of Fraser Colegrave, paragraph 24

¹¹³ Evidence of Fraser Colegrave, paragraph 25

¹¹⁴ Economic Supplementary Evidence of Fraser Colegrave, page 9, *Table 3: Waimakariri District LLRZ Sufficiency within the GCUA*

¹¹⁵ Supra at para [45]

¹¹⁶ Supra at para [42]

¹¹⁷ Refer Supplementary Evidence of David Smith, David Delagarza, Danesh Sookdev dated 8 July 2024

¹¹⁸ Becca Report – Ohoka Greenhouse Gas Emissions Review dated 21 May 2024

zoning at Ohoka/Mandeville and should not be relied on for the Stream 12C hearings regarding proposed LLR zoning. This is because the Proposed Plan recognises LLRZ as a separate and distinct zoning typology that is intended to be located away from the District's main towns of Rangiora, Kaiapoi and Woodend.¹¹⁹

99 Consequently the correct comparison for the purposes of greenhouse gas emissions is between different locations of LLRZ within the District. That is the approach adopted by Mr Wilson in his evidence. Mr Wilson demonstrates that Mandeville actually performs well when compared to other LLRZ locations.¹²⁰

CONCLUSION

100 The NPS-UD directs a "radical change" to the way in which local authorities must approach the issue of development capacity – the spirit and intent of substantive objectives is to open development doors rather than to close them.

101 The proposed rezoning will provide a number of important positive consequences for Mandeville that are not attainable under the zoning pattern proposed by the Proposed Plan. These include increased development capacity for rural residential housing, more choice and improved affordability of housing, more efficient use of existing infrastructure, a coordinated pattern of development that integrates with and supports the existing large lot residential development at Mandeville. Further there are little, if any negative consequences arising from the proposed rezoning.

102 These outcomes are consistent with the outcomes that must be achieved by local authorities under the NPS-UD.

Dated: 15 August 2024



Chris Fowler
Counsel for Mark and Melissa Prosser

¹¹⁹ Proposed Plan at UFD-P3(2)(b) and (c)

¹²⁰ Greenhouse gas Evidence of Robert Wilson

Evidence filed on behalf of the SubmitterEvidence filed 5 March 2024:

- Evidence of Ian McPherson (Geotech)
- Evidence of Aaron Graham (Contamination)
- Evidence of Sharn Hainsworth (Soils)
- Evidence of Danash Sookdev (Infrastructure)
- Evidence of David Smith (Traffic)
- Evidence of Vikramjit Singh (Urban Design)
- Evidence of Fraser Miller (Landscape)
- Evidence of Fraser Colegrave (Economics)
- Evidence of Stuart Ford (Agricultural Productivity)
- Evidence of Roland Payne (Ecology)
- Evidence of David Delagarza (Stormwater)

Evidence filed 24 April 2024

- Evidence of Mark Allan (Planning)
- Supplementary Evidence of Danash Sookdev (Infrastructure)

Evidence filed 8 July 2024

- Evidence of Mark Prosser (Land owner/Developer)
- Evidence of Mark Pringle (Real Estate Agent)
- Evidence of Robert Wilson (Transport GHG Emissions)
- Supplementary Evidence of Sharn Hainsworth (Soils)
- Supplementary Evidence of David Smith (Traffic)
- Supplementary Evidence of David Delagarza (Stormwater)
- Supplementary Evidence of Fraser Colegrave (Economics)
- Supplementary Evidence of Roland Payne (Ecology)
- Supplementary Evidence of Stuart Ford (Agricultural Productivity)
- Supplementary evidence of Danash Sookdev (Infrastructure)
- Supplementary Evidence of Mark Allan (Planning)
- Supplementary Evidence of Fraser Miller (Landscape) – Including Updated Graphic Attachment