

**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

Submissions and Further Submissions on the
Proposed Waimakariri District Plan by
Howard Stone

**LEGAL SUBMISSIONS OF COUNSEL FOR HOWARD STONE
SUBMITTER 191.1 - HEARING STREAM 12A**

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MAY IT PLEASE THE COMMISSIONERS:

INTRODUCTION

- 1 The Submitter seeks, through its submission on the Proposed Plan, to rezone 3.81ha (being Lot 2 DP 80926) of its 16.061 ha of land, located at 1188 Main North Road / 20 Te Haunui Lane, Pegasus ("**the site**"), from its current Rural Lifestyle Zone (RLZ) in the Proposed Plan as notified, to Special Purpose Zone Pegasus Resort (SPZPR). The site is zoned Rural in the Operative District Plan ("**ODP**").
- 2 The rezoning would enable the creation of 12 residential lots, of a similar size to other lots within the Pegasus Bay Golf Course / Mapleham development, with a minimum allotment area of 2000m², contributing to the housing capacity supply at Pegasus Bay / Woodend. This supply is projected by Council's economists to have a deficit of 3050 houses to meet demand over the long term (30 year) period, likely to eventuate around 2037.¹
- 3 Given the proximity to the Pegasus Resort development (originally named the Mapleham Block Woodend development), consideration was given to future servicing of the site at the time of the original subdivision in the mid-2000s. Specific reference has been made to the "Proposed Stone Subdivision (12)" in the 2007 Beca Mapleham Low Pressure Sewer Design Report, which is an approved resource consent application.
- 4 Residential zoning of the site would give better effect to the National Policy Statement for Urban Development 2020 (**NPS-UD**), and in doing so, give better effect to Part 2 of the RMA, than would the Proposed Plan as notified.
- 5 The proposed rezoning would also give better effect to those parts of the Canterbury Regional Policy Statement (**CRPS**) which are relevant and which, in themselves give effect to the NPS-UD. There are parts of the CRPS which do not give effect to the NPS-UD, and should therefore not be given weight.

¹ Waimakariri Residential Capacity and Demand Model – IPI 2023, 8 December 2023, Formative, page 36

SCOPE OF EVIDENCE

- 6 The Submitter has provided the following evidence:
- a **Giles Learman** regarding natural hazards and geotechnical issues;
 - b **Neil Cox** regarding infrastructure;
 - c **Joanne Sunde** regarding planning.

KEY ISSUES

- 7 The issues to be addressed arising from the Submitter's submissions are as follows:
- (a) What is the relationship between the NPS-UD and the Proposed Plan?
 - (b) What are the potential positive consequences of the proposed rezoning compared to the zoning in the Proposed Plan?
 - (c) What are the potential negative consequences of the proposed rezoning compared to the zoning in the Proposed Plan?
 - (d) Does the proposed rezoning better give effect to the NPS-UD, the CRPS, and the objectives and policies of the Proposed Plan?
- 8 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. The opposite is true of the zoning in the Proposed Plan and Variation 1. 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 and Variation 1.

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

Statutory Framework for Proposed Plan Change Decisions

- 9 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*,² following the decision of *Colonial Vineyard Ltd v Marlborough District Council*,³ 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 RMA⁴

(f) whether they accord with Part 2 of the RMA⁵

(g) whether they give effect to the regional policy statement⁶

(h) whether they give effect to a national policy statement⁷

(i) whether they have regard to [relevant strategies prepared under another Act]⁸ and

(j) whether the rules have regard to the actual or potential effects on the environment including, in particular, any adverse effects.⁹

[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:

(a) identifying other reasonably practicable options for achieving the objectives,¹⁰ and

(b) assessing the efficiency and effectiveness of the provisions in achieving the objectives, including by:¹¹

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;¹² and

- employment that are anticipated to be provided or reduced;¹³ and

ii. if practicable, quantifying the benefits and costs,¹⁴ and assessing the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.¹⁵

² [2022] NZEnvC 162 at [29]

³ [2014] NZEnvC 55 at [17]

⁴ RMA, ss 31 and 74(1)(a)

⁵ RMA, s 74(1)(b)

⁶ RMA, s 75(3)(c)

⁷ RMA, s 75(3)

⁸ RMA, s 74(2)(b)

⁹ RMA, s 76(3)

¹⁰ RMA, s 32(1)(b)(i)

¹¹ RMA, s 32(1)(b)(ii)

¹² RMA, s 32(2)(a)(i)

¹³ RMA, s 32(2)(a)(ii)

¹⁴ RMA, s 32(2)(b)

¹⁵ RMA, s 32(2)(c)

- 10 In *Colonial Vineyard*, 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.¹⁶

Hierarchy of planning documents

- 11 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, for example if it 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

- 12 In making the statement that the requirement to “give effect to” is a strong directive, the Supreme Court went on to draw the distinction that:

A requirement to give effect to a policy which is framed in a specific and unqualified way may, in a practical sense, be more prescriptive than a requirement to give effect to a policy which is worded at a high level of abstraction.

- 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*

¹⁶ *Colonial Vineyard Ltd v Marlborough District Council* [2014] NZEnvC 55 at [68] – [71]

¹⁷ [2014] NZSC 38

¹⁸ *Supra*, at [10]

¹⁹ At [80]

²⁰ At [90]

²¹ At [90]

*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. That instrument has been superseded by the NPS-UD 2020, however the following comments of the Court remain applicable:

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

- 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 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.

[154] 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..

²² [2019] NZEnvC 59

²³ At [113]

²⁴ At [148 – 155]

- 15 More recently, the Environment Court in the above-mentioned *Middle Hill*²⁵ decision summarised the NPS-UD as follows:

*[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...***

- 16 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*

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

(a) short term means 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.

- 18 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 business land for the next 30 years.

- 19 In the recent case of *Re Otago Regional Council*,²⁶ 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 other matters, it is plan-enabled and infrastructure-ready."²⁷ The CODC and the other Tier 1, 2 and 3 local authorities involved in that case sought

²⁵ [2022] NZEnvC 162

²⁶ [2021] EnvC 164

²⁷ *Re Otago Regional Council* [2021] EnvC 164, at para 358

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.

20 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...***

21 The Waimakariri Residential Capacity and Demand Model – IPI 2023 (**WRCDM**) identifies housing supply **deficits** for the Woodend-Pegasus area of **280** dwellings in the short-medium term (2023-2033) and **3050** dwellings in the long term (2023-2053).²⁸ That report then goes on to assert that “the shortfall in Woodend/Pegasus could be accommodated in the other towns”, ie Rangiora and Kaiapoi. Particularly in relation to the Stone proposal to provide large (2000m²) sections overlooking the Pegasus Bay golf course, that is not an appropriate approach. The demand for such sections would not be met by providing typical residential sections in the residential suburbs of Rangiora or Kaiapoi. In this regard, the proposed rezoning provides for housing choice in accordance with Policy 1 (a) of the NPS-UD where a variety of homes is enabled that “meet the needs, in terms of type, prices, and location, of different households”.

22 It is also important to consider Part 2 of the RMA where the purpose of the Act is to promote the sustainable management of natural and physical resources. Section 7 has particular regard to the efficient use and development of natural and physical resources. In this case, the site is already serviced by infrastructure to facilitate a 12 lot subdivision. The efficient use of this site’s existing infrastructure would be realised by the proposed SPZPR zoning.

²⁸ WRCDM Page 36

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

23 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 Polices 1, 6, 8 and 9 of the NPS-UD

24 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 as notified, in that it:²⁹ will better provide a well-functioning urban environment at the Pegasus Bay Resort Zone, 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 future³⁰

- a) will improve housing affordability by supporting competitive land and development markets³¹
- b) will enable more people to live in an area of the Pegasus Bay Resort environment which is in or near a centre zone or other area with many employment opportunities, serviced by existing or planned public transport, and where there is high demand for housing and for business land in the area, relative to other areas within the urban environment³²
- c) the environment of Pegasus Bay Resort, including its amenity values, will develop and change over time in response to the diverse and changing needs of people, communities and future generations³³
- d) the principles of the Treaty of Waitangi have been taken into account in the proposed rezoning³⁴
- e) the housing development which the rezoning enables would be integrated with infrastructure planning and funding decisions, strategic over the

²⁹ NPS-UD, Objective 1

³⁰ NPS-UD, Objective 1

³¹ NPS-UD, Objective 2

³² NPS-UD, Objective 3(a), (b) and (c)

³³ NPS-UD, Objective 4

³⁴ NPS-UD, Objective 5

medium term and long term, and supply significant development capacity (in the context of Pegasus Bay Resort and the Waimakariri District)³⁵

- f) the Council will be using robust and recently updated information about its urban environments to inform its planning decisions³⁶
- g) 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 the current and future effects of climate change³⁷
- h) the rezoning contributes to a well-functioning urban environment –
 - i. enabling and contributing to a variety of homes that meet the needs, in terms of type, price, and location of different households³⁸
 - ii. having good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport³⁹
 - iii. supporting, and limiting as much as possible adverse impacts on, the competitive operation of land and development markets⁴⁰
- j) the rezoning may involve significant changes to the rezoned area, but even if those changes detract from amenity values appreciated by people who seek to retain lower density in the area (and none have been expressed through submissions), they will improve amenity values appreciated by other people, communities and future generations, including by providing increased and varied housing densities and types,⁴¹
- k) the rezoning will contribute to the Council meeting the requirements of the NPS-UD to provide or realise development capacity⁴²
- l) the rezoning is responsive to a proposed plan change (through a submission on the proposed plan) that will add significantly to development

³⁵ NPS-UD, Objective 6(a), (b), and (c)

³⁶ NPS-UD, Objective 7

³⁷ NPS-UD, Objective 8(a) and (b), Policy 1(e) and (f) and Policy 6(e)

³⁸ NPS-UD, Policy 1(a)(i)

³⁹ NPS-UD, Policy 1(c)

⁴⁰ NPS-UD, Policy 1(d)

⁴¹ NPS-UD, Policy 6(b)

⁴² NPS-UD, Policy 6(d)

capacity and contribute to a well-functioning urban environment, even if out-of-sequence with planned land release.⁴³

Policies 2, 3, 4, 10 and 11 of the NPS-UD

25 Policies 2, 3, 4, 10 and 11 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:

- a) will better help the Council to provide at least sufficient development capacity to meet expected demand for housing over the short term, medium term and long term;⁴⁴
- b) will not modify the relevant building heights and will be in accordance with the density requirements of Activity area 7 Residential on the notified ODP under Policy 3;⁴⁵
- c) will result from engagement with the development sector to identify significant opportunities for urban development, as part of the wider consideration of land use and development within the PWDP review process;⁴⁶
- d) does not set minimum car parking rate requirements.⁴⁷

DOES THE PROPOSED ZONING BETTER GIVE EFFECT TO THE CANTERBURY REGIONAL POLICY STATEMENT THAN THE PROPOSED PLAN OR VARIATION 1 AS NOTIFIED?

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

27 The proposed rezoning better achieves development which is located and designed so that it functions in a way that:⁴⁸

- 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

⁴³ NPS-UD, Policy 8

⁴⁴ NPS-UD, Policy 2

⁴⁵ NPS-UD, Policy 3, Policy 4

⁴⁶ NPS-UD, Policy 10(c)

⁴⁷ NPS-UD, Policy 11(a)

⁴⁸ CRPS Objective 5.2.1

- 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. minimises 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;
 - v. avoids conflicts between incompatible activities.
- 28 The proposed rezoning also better achieves recovery, rebuilding and development within Greater Christchurch that:⁴⁹
- a protects outstanding natural features and landscapes from inappropriate subdivision, use and development;
 - 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;
 - f achieves development that does not adversely affect the efficient operation, use, development, appropriate upgrade, and future planning of strategic infrastructure and freight hubs; and
 - g optimizes use of existing infrastructure.
- 29 Objectives 6.2.1(1), (2) and (3) seek to identify priority areas for urban development within Greater Christchurch, and key activity centres which provide focus for mixed-use development, and avoid urban development outside of existing urban areas or greenfield priority areas for development, unless expressly provided for in the CRPS.

⁴⁹ CRPS Objective 6.2.1

30 The Submitter's land has not been identified in Map A of Chapter 6 as a greenfield priority area or a future development area.

31 However, objectives 6.2.1(3), 6.2.2(4), Map A and Policy 6.3.12 of the CRPS take the outdated approach described by the Environment Court in *Bunnings*,⁵⁰ 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:

*"The spirit and intent of the substantive objectives [of the NPS-UD] is to open development doors, not to close them..."*⁵¹

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

*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.*⁵²

32 Although Objective 6.2.1a in CRPS sets out "Housing Bottom Lines" for the Greater Christchurch urban environment from 2021-2051, and refers to those as being of "at least sufficient development capacity for housing" in that period, as Map A does not allocate sufficient land area at each of Waimakariri's urban environments to meet demand in each location over that period, the CRPS is closing development doors rather than opening them, and not giving effect to the NPS-UD.

33 The Housing Bottom Lines for Waimakariri, shown in Table 6.1 (page 71) at 5,100 for 2021-2031 and 7,400 for 2021-2051, severely undershoot the dwelling demand predicted in the WRCDM23 of 6,260 households (district-wide) in the short-medium term (2023-2033) and 14,727 in the long term (2023-2053).

⁵⁰ [2019] NZEnvC 59 at [148]

⁵¹ *Supra* at [155]

⁵² At [113]

- 34 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.”

WHAT ARE THE POTENTIAL POSITIVE AND NEGATIVE CONSEQUENCES OF THE PROPOSED REZONING COMPARED TO THE PROPOSED PLAN AS NOTIFIED?

Increased development capacity for housing

- 35 The WRCDM 23 establishes that there is a shortfall of housing supply for the Woodend / Pegasus Bay Resort area, of 280 relative to the short-medium term demand. The shortfall of 3,050, in relation to the long term demand, is even greater.
- 36 Rezoning the Submitter’s land to Special Purpose Zone (Pegasus Bay Resort) would add significantly to the Resort Zone’s development capacity, with 12 more 2000m² lots made available for housing.⁵³
- 37 The rezoning would also contribute to a well-functioning urban environment in Pegasus Bay Resort, given its close proximity to the Pegasus town centre, as well as Ravenswood, Woodend, and Christchurch, and to public transport options for travel to Christchurch.⁵⁴
- 38 In contrast, retaining rural zoning for the Submitter’s land continues and exacerbates reverse sensitivity issues (as density of the existing township increases). It also leaves those who wish to reside in Pegasus Bay Resort with fewer options, adversely affecting the competitive operation of land and development markets in that location and therefore increasing land and housing prices.⁵⁵

⁵³ NPS-UD Policy 8

⁵⁴ NPS-UD Policy 8

⁵⁵ NPS-UD Policy 1(d)

More choice and improved affordability of housing

39 One of the minima of a well-functioning urban environment is that it has or enables a variety of homes that meet the needs, in terms of type, price, and location, of different households.⁵⁶

40 In *Colonial Vineyard*,⁵⁷ 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.

[148] 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.

41 Against the backdrop of predicted significant housing shortfall at Woodend / Pegasus Bay, it seems likely that one of the risks of not approving the proposed rezoning is house price increase due to shortage of supply. Conversely,

⁵⁶ NPS-UD Policy 1(a)

⁵⁷ [2014] NZEnvC 55 at [98] – [101]

granting the proposed rezoning is likely to have a positive influence on affordability of housing at this location.

42 Further to this, the WRCDM 23 states:

*“Finally, we note that the NPS-UD sets out minimum requirements for sufficiency within urban areas. We consider that **these minimums are not a target to be reached and are rather a threshold which should be exceeded.** Therefore, it is reasonable for the Council to provide more capacity for urban growth than is required to meet expected demand, both within the urban environment and other townships in the District, while also balancing and taking into account other social, economic and cultural well beings, environmental outcomes and the wider goal of encouraging well-functioning urban environments.”⁵⁸*

43 This is important to consider in respect of the site which is already serviced with infrastructure and well located to provide additional housing to the Woodend / Pegasus Bay market and ultimately achieve the wider goal of a well-functioning urban environment.

Compact urban form that reduces need for urban expansion

44 Consistently with the relevant objectives and policies in the Proposed District Plan, particularly those that relate to Urban Growth, the proposed rezoning will contribute to a consolidated and compact urban form at the Pegasus resort, and in the wider Waimakariri and Greater Christchurch areas. This in turn will support accessible, sustainable and resilient neighbourhoods and efficient and integrated servicing.

45 The site is located within 1 km of Pegasus Town centre, 1.5km from the Ravenswood Commercial area, and approximately 2.5km from Woodend.⁵⁹

46 The character and amenity of the Pegasus Resort and township area, and the sense of open space and rural outlook, will be maintained. The Outline Development Plan carefully considers the boundary with adjoining rural land and includes mitigation measures such as a landscape buffer and building setbacks. These measures will also avoid and mitigate reverse sensitivity effects, and effects on waterways including the adjacent Wai Hora stream.

⁵⁸ Page 38 WRCDM 23

⁵⁹ Evidence of Jo Sunde, paragraph 16

- 47 The proposed rezoning integrates with the existing Pegasus Resort and township. The site adjoins the SPZPR zone and will form a seamless integration with the existing Pegasus Resort residential development through the application of the zone standards and ODP.
- 48 Activity Area 7 only exists and can be supported in this location due to its context within a unique special purpose zone associated with the Pegasus Resort and development in accordance with a specific ODP

Efficient use of infrastructural capacity

- 49 The site can connect to existing infrastructure for water and wastewater reticulation, as well as gas and power utility connections, so servicing will be coordinated and will ensure maximum efficiency of the use of infrastructural capacity. There are many options available for stormwater management solutions.

- 50 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.⁶⁰ "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***

"Development infrastructure" mean the following, to the extent they are controlled by a local authority or council controlled organization (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).*

- 51 It is simply not a valid option for the Council to refuse 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. The Council is required by the NPS-UD to provide, at all times, the infrastructure to meet the 30 year demand for housing. Where a proposed development

⁶⁰ NPS-UD Policy 2, definitions, and Clauses 3.2, 3.4, 3.5

can take advantage of infrastructure that has already been put in place in anticipation, that is an additional reason why the rezoning sought should be granted.

Highly Productive Soils

52 Given that the Submitter's land is already within the Rural Lifestyle zone in the proposed plan, it does not trigger the provisions of the National Policy Statement on Highly Productive Soils. The existing ability to subdivide to 4ha within the Rural Lifestyle zone means that conversion to the Special Purpose (Pegasus Resort) zone is not likely to result in any less productive use of the land. Mr Dunham has provided a report recording the current unproductive state of the property.

Transport Infrastructure

53 Contrary to the assertions of the section 42A report writers, the site is relatively well connected for public and active transport, as rural lifestyle properties go. At any rate, the need for future residents to walk 900m to a bus-stop, or perhaps drive to the bus-stop, park and ride a bus into one of the larger townships or Christchurch, is not a valid reason to decline the subdivision.

CONCLUSION

54 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.

55 With this intent in mind, the PWDP review process provides the opportunity to capitalise on the existing infrastructure already available for the anticipated 12 lot subdivision development potential of the Site as facilitated by the original Mapleham Block Woodend development. This represents the most efficient use of the land in an appropriate location with acceptable effects. The robust PWDP review planning process will enable the proposed rezoning to be considered as part of the wider zoning decisions in the Waimakariri District in a planned and coordinated approach.

- 56 The proposed rezoning will provide a number of important positive consequences for the Pegasus Resort and township that are not attainable under the zoning in the Proposed Plan. These include increased development capacity for housing, more choice and improved affordability of housing, more efficient use of existing infrastructure, and a compact and consolidated urban form. Further there are few, if any negative consequences arising from the proposed rezoning.
- 57 The proposed rezoning better gives effect to the NPS-UD, those parts of the CRPS which give effect to that instrument, and the relevant objectives and policies of the Proposed District Plan.

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