

**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
Doncaster Developments Limited

**LEGAL SUBMISSIONS FOR DONCASTER DEVELOPMENTS
REGARDING HEARING STREAM 12E**

DATED: 12 August 2024

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INTRODUCTION

- 1 These submissions are filed on behalf of Doncaster Developments Limited (**Doncaster**) in respect of the Stream 12E hearing of submissions on the Proposed Waimakariri District Plan (**Proposed Plan**) and Variation 1 to the Proposed Plan.
- 2 The land referred to in Doncaster's submissions (the **Site**) is zoned residential 4A under the Operative District Plan and Large Lot Residential (**LLRZ**) in the Proposed Plan. Doncaster's submission on the Proposed Plan sought rezoning to General Residential Zone (**GRZ**). Its submission on Variation 1 sought that either:
 - (a) The PDP submission be allowed in full and the property be included in the General Residential zone, along with adjacent residential areas of Rangiora, if Variation 1 has been appropriately modified to enable that outcome; or
 - (b) The zoning of the property be changed to Medium Density Residential Zone (**MDRZ**) if Variation 1 proceeds in approximately its notified form.
- 3 The Site is an area of approximately 11 ha in northwest Rangiora adjoining Lehmens Road. It falls within the Northwest Rangiora Development Area shown in the Proposed District Plan. Due to setback requirements from electricity pylons along Parrott Road, the actual developable area is about 8ha.
- 4 Doncaster's submission on Variation 1 sought, in the alternative, MDRZ. However, it expressed concern about whether such high density zoning would be appropriate, or sought by the market, on the outskirts of Rangiora. The Indicative Subdivision Plan (**ISP**) attached to Doncaster's submission on the Proposed Plan shows that it intends to create most sections in the 700m² range, with a much smaller number of sections in the 400m² range.
- 5 Doncaster's planned subdivision, in this location, would best give effect to the National Policy Statement for Urban Development 2020 (**NPS-UD**), and therefore best give effect to the relevant provision of the RMA.

- 6 Although NPS-UD is often perceived as requiring people to live in increasingly dense housing situations, that is not its intent. It is an enabling document, which seeks to provide housing choice.
- 7 There are many people who seek to have a traditional house and garden, whether that is to home and raise a family, or for other purposes. On the way to that goal, they may seek to establish themselves in the neighbourhood in a smaller, more accessible dwelling, or they may move into such a dwelling once they are "empty-nesters", but wish to stay close to the community they've lived in. A mixture of allotment sizes and dwelling types enables people to put down their roots and grow community.
- 8 NPS-UD is not about forcing everyone into increasingly densified housing in the existing urban area. Some denser housing options will enable people to obtain homes, but every part of the existing urban land area that is converted to higher density housing removes the option of low density housing that many families and people need and seek.
- 9 Doncaster's submission on the Proposed Plan included its vision for a mixture of section sizes, with most in the 700m² range, together with a smaller number in the 400m² range. So, it challenged the GRZ requirement of a 500m² minimum section size. In its submission on Variation 1, Doncaster expressed concern about the MDRZ, which taken to its extreme in this location on the outskirts of Rangiora, would not meet what the market seeks, which is mainly sections large enough to accommodate a 3 bedroom house and a garden. MDRZ would enable the small number of sections under 500m² which Doncaster intends to provide as part of the appropriate mixture of section sizes for the location.
- 10 Although Doncaster intends to develop the Site in accordance with the ISP (producing 110 households), rezoning the site to MDRZ raises the possibility of greater density and more households. In his supplementary evidence, Doncaster's traffic engineer Ray Edwards has assessed the traffic effects of higher density development and found them to be acceptable.
- 11 MDRZ on the Site would give better effect to the, and in doing so, better give effect to Part 2 of the RMA, than would the Proposed Plan as notified.

- 12 Doncaster's evidence is listed at **Appendix A**, including evidence filed on 5 August in response to the s42 Officers' Report (**Officers' Report**). This evidence 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 Doncaster's proposed rezoning are much less than the risks associated with the LLRZ as notified in the Proposed Plan, and will provide greater actual and potential benefits.

KEY ISSUES

- 13 The issues to be addressed arising from the Doncaster submission are as follows:
- (a) What is the relationship between the NPS-UD, the Canterbury Regional Policy Statement (**CRPS**) and the Proposed Plan;
 - (b) What are the potential positive consequences of the proposed rezoning compared to the Proposed Plan;
 - (c) What are the potential negative consequences of the proposed rezoning compared to the Proposed Plan;
 - (d) Does the proposed rezoning better give effect to the NPS-UD than the Proposed Plan;
 - (e) Does the proposed rezoning better give effect to the CRPS than the Proposed Plan; and
 - (f) Reply to the Officer Report and the Response Document.

STATUTORY FRAMEWORK FOR PROPOSED PLAN CHANGE DECISIONS

- 14 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:

¹ [2022] NZEnvC 162 at [29]

² [2014] NZEnvC 55 at [17]

[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:

- (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

15 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

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)

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)

Court as a means to evaluate the risks of acting or not acting in respect of each option.¹⁵ We have adopted that approach in these submissions.

STATUTORY PLANS

16 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**).

17 Each of these statutory documents are discussed in the planning evidence of Ms Harte.¹⁶ The Officers' Report supports the interpretation adopted by Ms Harte regarding the NPS-UD, the NPS-HPL, and the CRPS.

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

Hierarchy of planning documents

18 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 that appropriate does not fit readily into the hierarchical scheme of the RMA,²⁰ and

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

¹⁶ Planning evidence in Chief of Ms Harte at paragraph 33 to 49

¹⁷ [2014] NZSC 38 at [ABOAP 376]

¹⁸ At [ABOAP 381], paragraph [10]

¹⁹ At [80]

²⁰ At [90]

(c) the requirement to “give effect to” a National Policy Statement is intended to constrain decision makers.²¹

19 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:

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

20 In *Bunnings*, the Environment Court held that the NPS-UDC required a different approach to deciding whether land may be rezoned for urban 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

²¹ At [91]

²²[2019] NZEnvC 59

²³ Supra at [113]

²⁴ at [148] – [155]

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

21 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.*

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

- (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.*

23 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.

24 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.

²⁵ [2021] EnvC 164

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

25 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...***

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

Increased development capacity for medium density housing

26 Mr Heath’s evidence assesses the District’s population and housing context, the current state of the residential housing market, the economic rationale for the proposed rezoning, and the likely wider economic impacts. He notes that the District closely aligns with the Statistics NZ High Growth scenario, *a trend anticipated to persist over the next 25 years. Specifically, under the High Growth scenario, the total population of the Waimakariri District is projected to reach nearly 97,000 residents by 2048... this indicates a strong and consistent demand for new dwellings at the district level.*²⁷

27 Mr Heath considers that an additional 10,120 dwellings will be required over the next 25 years in the District, in order to accommodate the projected growth under the High Growth scenario.²⁸

28 Further, Mr Heath considers that, specifically in Rangiora, under the Stats NZ High Growth scenario, the projected population is expected to reach over 28,600 residents by 2048.²⁹ Under these projections, there is an anticipated

²⁷Economic evidence in chief of Tim Heath, para 19

²⁸ Economic evidence in chief of Tim Heath, para 23

²⁹ Economic evidence in chief of Tim Heath, para 26

rise in Rangiora's estimated household count from around 8,340 in 2024 to 11,620 in 2048.³⁰

29 Rezoning the Submitter's land to MDRZ, instead of LLRZ as notified, would add significantly to residential capacity within the District, and provide more supply certainty in Rangiora over the short and medium terms.³¹

30 Considering the substantial growth that has occurred in Rangiora and in the wider District, there is a need to provide more capacity in order to keep pace with the demand and sustain ongoing growth. Sufficient capacity is not provided by the proposed plan as notified. Mr Heath's evidence concludes that Doncaster's Site represents an economically efficient location to address some of this demand.³²

More choice and improved affordability of housing

31 One of the minimum standards 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.³³

32 Mr Prebble, in his corporate statement for Doncaster, states that from his experience working in the Waimakariri District, MDR developments need to be comprised of a mixture of sizes and shapes that meet the various demands of the market.³⁴

33 Mr Heath considers that rezoning Doncaster's Site to MDRZ would provide location and typology choice and improve competitiveness in the market.³⁵

34 Further, that with higher allowable densities, the developer's average costs (price per dwelling) are decreased, which improves the affordability of the product that can be delivered to the market. This ultimately, provides more affordable options for the consumer.³⁶

³⁰ Economic evidence in chief of Tim Heath, para 27

³¹ Economic evidence in chief of Tim Heath, para 51

³² Economic evidence in chief of Tim Heath, para 53

³³ NPS-UD Policy 1(a)

³⁴ Evidence of Chris Prebble, para 20

³⁵ Evidence in Chief of Mr Heath, para 50

³⁶ Evidence in Chief of Mr Heath, para 71

- 35 In *Colonial Vineyard*,³⁷ 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.**

- 36 Against the backdrop of predicted shortfall of residential dwellings within the district and particularly at Rangiora, it is obvious 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 Rangiora.

Compact residential urban form that reduces urban sprawl

- 37 Consistent with the relevant objectives and policies in the Proposed District Plan, particularly those that relate to Urban Growth³⁸, the proposed rezoning will be attached to an existing urban environment and the ODP will promote a

³⁷ [2014] NZEnvC 55 at [98] – [101]

³⁸ Proposed Plan Objectives and Policies, including Policy UFD-P3

coordinated and compact urban form. The houses will be located within close proximity to the Rangiora CBD, supporting the township services/amenities and facilities.

- 38 The proposed rezoning is consistent and compatible with the established character of the area. The ODP recognises the prevailing character of the area by proposing housing types that mirror the existing adjacent residential zone. The proposed rezoning would create an environment that fosters a sense of continuity within the established residential zone.³⁹
- 39 Ms Harte's evidence concludes that the Proposal will deliver well-designed, consolidated and integrated growth around the existing urban area. The Proposal is a logical extension of residential Rangiora, as it occupies the last remaining area of land in the North-West corner of the township and is well-connected to commercial and community services.⁴⁰ Rezoning the Site provides a logical solution in response to the growth in Rangiora.⁴¹

Efficient use of infrastructure

- 40 The engineering evidence for Doncaster demonstrates that the Site can be appropriately serviced with respect to flooding and stormwater⁴², potable water and wastewater,⁴³ and transportation.⁴⁴
- 41 As mentioned by Ms Harte, there are no adverse effects, including environmental adverse effects, anticipated from the MDR rezoning of the Site and subsequent residential development.⁴⁵
- 42 The Officer Report considers that there are no known significant constraints that would prevent the proposed land use at the Site, with respect to stormwater, potable water and wastewater.⁴⁶
- 43 The only servicing issues raised by the Officer Report relates to transportation, but as explained by Mr Edwards in his supplementary evidence, the Officer is mistaken in his view of this. The transportation effects of the MDR rezoning

³⁹ Evidence of Vikramjit Singh, para 60

⁴⁰ Evidence of Patricia Harte, para 17 and 38

⁴¹ Evidence of Patricia Harte, para 50

⁴² Infrastructure Evidence in Chief of Mr Smith dated 5 March 2024 at [20]-[27]

⁴³ Infrastructure Evidence in Chief of Mr Smith dated 5 March 2024 at [28]-[37]

⁴⁴ Transport Evidence in Chief of Mr Edwards dated 5 March 2024 at [9]-[10]

⁴⁵ Evidence of Patricia Harte, para 31

⁴⁶ Officer Report: PDP Residential Rezoning, para 326

would not be negative, and would in fact make use efficient use of existing infrastructure.

Summary of positive and negative consequences

44 In summary to this point, the Proposal will generate significant positive consequences that cannot be realised under the Proposed Plan and no negative consequences will arise.

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

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

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

46 These objectives and policies apply to all local authorities and must be given effect to in all district plans. The proposed rezoning sought by Doncaster 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 Rangiora, 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;⁴⁷
- (b) will improve housing affordability by supporting competitive land and development markets;⁴⁸
- (c) will enable more people to live in an established urban environment that is near employment opportunities and connections with the public transport network, and in an area experiencing high demand for residential housing;⁴⁹
- (d) will enable the established township of Rangiora to continue to develop in response to the recognised demand for additional rural

⁴⁷ NPS-UD, Objective 1

⁴⁸ NPS-UD, Objective 2

⁴⁹ NPS-UD, Objective 3(a), (b) and (c)

- residential land, providing diversity and choice in the housing market;⁵⁰
- (e) the principles of the Treaty of Waitangi have been taken into account in the proposed rezoning;⁵¹
 - (f) is required to address an identified shortfall in residential land in Rangiora over the medium term, and is in a strategically preferred location. The Site can be appropriately integrated with infrastructure planning and funding decisions;⁵²
 - (g) the Council will be using robust and recent information about its urban environments to inform its planning decisions;⁵³
 - (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;⁵⁴
 - (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;⁵⁵
 - (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;⁵⁶
 - (iii) supporting and limiting as much as possible adverse impacts on, the competitive operation of land and development markets;⁵⁷
 - (iv) supporting reductions in greenhouse gas emissions through compact urban form⁵⁸; and

⁵⁰ NPS-UD, Objective 4

⁵¹ NPS-UD, Objective 5 and Policy 9

⁵² UD, Objective 6(a), (b), and (c)

⁵³ NPS-UD, Objective 7

⁵⁴ NPS-UD, Objective 8(a) and (b), Policy 1(e) and (f) and Policy 6(e)

⁵⁵ NPS-UD, Policy 1(a)(i)

⁵⁶ NPS-UD, policy 1(c)

⁵⁷ NPS-UD, Policy 1(d)

⁵⁸ NPS-UD, Policy 1(e)

- (v) being resilient to the likely current and future effects of climate change⁵⁹
 - (j) although the rezoning may involve changes to the character of the rezoned area and the outlook from adjoining rural residential properties, the nature and character of development will be consistent and compatible with the that of the established settlement at north-west Rangiora.⁶⁰
 - (k) the rezoning will contribute to the Council meeting the requirements of the NPS-UD to provide or realise development capacity.⁶¹
 - (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.⁶²
- 47 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:
- (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; and⁶³
 - (b) will result from engagement with the development sector to identify significant opportunities for urban development.⁶⁴

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

Chapter 5

- 48 The rezoning proposed by Doncaster gives better effect to the Canterbury Regional Policy Statement (**CRPS**) than the Proposed Plan as notified.
- 49 The Proposed rezoning better achieves development which is located and designed so that it functions in a way that:⁶⁵

⁵⁹ NPS-UD, Policy 1(f)

⁶⁰ NPS-UD, Policy 6(b)

⁶¹ NPS-UD, Policy 6(d)

⁶² NPS-UD, Policy 8

⁶³ NPS-UD, Policy 2

⁶⁴ NPS-UD, Policy 10(c)

- (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.

Chapter 6

- 50 The Proposal achieves consistency with Chapter 6 for the reasons set out in the paragraphs below.
- 51 The proposed rezoning better achieves recovery, rebuilding and development within Greater Christchurch through a land use and infrastructure framework that:⁶⁶
- (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

⁶⁵ CRPS Objective 5.2.1

⁶⁶ CRPS Objective 6.2.1 (2),(5),(6),(7),(8),(9),(11)

- (f) optimizes use of existing infrastructure.
- 52 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.
- 53 Doncaster's land has not been identified in Map A of Chapter 6 as a greenfield priority area or a future development area.
- 54 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*,⁶⁷ 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:⁶⁸

"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:⁶⁹

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.

- 55 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.

⁶⁷ [2019] NZEnvC 59 at [148]

⁶⁸ *Supra* at [155]

⁶⁹ At [113]

56 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).

57 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”.*

REPLY TO OFFICER REPORT AND RESPONSE DOCUMENT

58 The Officer Report expresses some points in opposition to the Proposal, and consequently recommends rejecting the Doncaster rezone Proposal. These points raised by the Officer Report are discussed below together with relevant supplementary evidence filed by Doncaster in reply to the Officer Report.

Greenspace recommendations

Open reserve area along transmission line will have reduced opportunity for recreation

59 The Officer report⁷⁰ questions the opportunity of use from future residents of the Open reserve area along the transmission lines, suggesting it will serve more as a buffer for the infrastructure development rather than provide true recreational use.

60 Mr Singh disagrees.⁷¹ He says that it is intended that the open reserve area along the southeast boundary would have a high-quality landscape treatment, which can assist in the acceptance of an open space zone under transmission lines, and in turn can encourage active use. He notes that this is quite typical for urban situations, and gives the example of an area in Yaldhurst, Christchurch.

⁷⁰ At [329]

⁷¹ Supplementary Evidence of Vikramjit Singh, para [12] to [16]

61 He explains that, from an urban design perspective this would not only be an efficient use of land, it can also assist in the softening of the utilitarian nature of the infrastructure with a resulting high quality landscape outcome.

62 Additionally, the proximity of this open reserve space to the existing development in the south would enable access options to the wider Rangiora population, fostering community involvement and promoting health and recreational activities.

63 Mr Singh's view is that, in terms of Urban Design, this large consolidated open reserve area augmented with open grass spaces, walking and cycling tracks, and storm water management would present an amenity opportunity and will be a good asset for the surrounding built form development and the northwest edge of Rangiora.

Need for a centrally located neighbourhood park to support residents

64 The Officer report⁷² signals a need for a more central park within the proposed development.

65 Mr Singh⁷³ (and Doncaster) agrees with the provision of a more central neighbourhood park. The updated ODP attached to Mr Singh's supplementary evidence shows the location where such a park can be located. The exact size of the park is a matter which can be detailed at the subdivision consent stage to align with the final lot numbers and configuration of future subdivision enabled by a re-zoning.

66 The neighbourhood park would be designed to reflect the Council's guidelines, which imposes through the future subdivision process.

Traffic

67 The Officer Report,⁷⁴ relying on the Transport Assessment of Mr Gregory, raises a number of traffic matters in respect of which further information is sought. In his supplementary evidence, Mr Edwards supplies that information.

⁷² At [329]

⁷³ At [17] – [19]

⁷⁴ At [340] – [348]

Allotment Yield

68 The ITA provided with Mr Edwards' evidence of March 2024 used the Indicative Subdivision Plan estimate of 110 allotments. The Officer Report notes that MDRZ could enable denser subdivision, but uses the entire land area rather than making a reasonable allowance for the land that is lost to roads and other infrastructure. In response, Mr Edwards has "stress-tested" his ITA to allow for 174 allotments.

69 Because the roading network which surrounds the Doncaster proposal provides so many possible route options, Mr Edwards finds that the additional 227 trips per day results in only small differences in road network link volumes, such as on Belmont Avenue. The volumes generated by the proposed rezoning are still well within the capacity of the existing roading network.

Access to Lehmans Road

70 Mr Gregory notes the potential for Lehmans Road to become part of a bypass route, to avoid heavy vehicles passing through the Rangiora CBD. Even with that potential change in use, Mr Edwards' view is that there would be nothing unique about the proposed bypass route that precludes it from having the same site access requirements as are contained in the proposed District Plan for other arterial roads. These requirements include tougher standards in relation to driveway number, driveway separation distances, and intersection setbacks. In Mr Edwards' opinion, no site specific rule for the Lehmans' Road boundary of the proposed rezoning site is necessary.

Provision for Alternate Travel Modes

71 Waka Kotahi's submission seeks better provision for cycling and pedestrian modes of transport. Mr Edwards considers⁷⁵ that this relief can be easily provided. His figure SE3 shows the existing cycleway network in the vicinity of the Site, together with the shared path additions which he recommends, and with which Doncaster agrees.

⁷⁵ Supplementary Evidence of Ray Edwards para [57]

CONCLUSION

- 72 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.
- 73 With this intent in mind, the PWDP review process provides the opportunity to capitalise on the existing infrastructure already available for the Site. 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.
- 74 The proposed rezoning will provide a number of important positive consequences for Rangiora that are not attainable under the zoning pattern proposed by the Proposed Plan. These include increased development capacity for medium density residential housing, more choice and improved affordability of housing, more efficient use of existing infrastructure, a coordinated pattern of development. Further there are little, if any negative consequences arising from the proposed rezoning.
- 75 These outcomes are consistent with the outcomes that must be achieved by local authorities under the NPS-UD.
- 76 The MDR rezoning sought by Doncaster better gives effect to the requirements of the RMA than does the LLR zoning in the proposed plan as notified.

Dated: 12 August 2024



Margo Perpick / Gabi Newman
Counsel for Doncaster Developments Limited

APPENDIX A**Evidence filed on behalf of the Submitter Doncaster Developments Limited**Evidence filed 5 March 2024:

- Evidence of Ray Edwards (Transport)
- Evidence of Tim Heath (Economics)
- Evidence of Giles Learman (Contamination)
- Evidence of Regan Smith (Infrastructure)
- Evidence of Vikramjit Singh (Urban Design)

Evidence filed 27 March 2024:

- Evidence of Patricia Harte (Planning)

Evidence filed 2 August 2024:

- Evidence of Christopher Prebble (Developer)
- Supplementary Evidence of Patricia Harte (Planning)
- Supplementary Evidence of Ray Edwards (Transport)
- Supplementary Evidence of Vikramjit Singh (Urban Design)