

Before the Hearings Panel
appointed by Waimakariri District Council

Under the Resource Management Act 1991
In the matter of a hearing on submissions on the proposed Waimakariri District
Plan
Hearing Stream 12C: Large Lot Residential Zones
MacRae Land Company Limited
Submission Number: 409
Further Submission number: 113

Legal submissions on behalf of MacRae Land Company Limited

12 July 2024

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May it please the Commissioners

- 1 These submissions are provided on behalf of MacRae Land Company Limited (**MLC**, Submission: 409), on the proposed Waimakariri District Plan (**PWDP**), Stream 12C: Large Lot Residential Zones hearing.
- 2 MLC's submission relates to the existing Development Area at Mill Road, Ohoka (**Mill Road Development Area**).
- 3 The Mill Road Development Area was initially rezoned to Residential 4A in 2013, through Plan Change 17 (**PC17**) to the Operative Waimakariri District Plan (**OWDP**). The PWDP largely rolls over the OWDP provisions including the Outline Development Plan (**ODP**) and specific provisions applying to the Mill Road, Ohoka Development Area (**the MILL Provisions**). The proposed zoning is a Residential 4A equivalent zoning of Large Lot Residential (**LLRZ**).
- 4 The approach of retaining the OWDP provisions is generally supported by MLC, however some amendments to provisions are sought to reflect changes to the local environment, consistency with the approach taken to other areas, or improvements in response to experiences in applying the current provisions.
- 5 The following evidence is provided in support of MLC's submission:
 - (a) Jeremy Head – Landscape;
 - (b) Andy Carr – Transport; and
 - (c) Terri Winder – Planning.
- 6 Mr Head, Mr Carr and I were involved in the PC17 process on behalf of MLC (2012 – 2013). Although Ms Winder was not involved in PC17, she is based within the same planning consultancy as the PC17 planner for MLC. In addition to providing submissions and evidence in support of MLC's submission, we have a high degree of familiarity with the PC17 process and rationale for the outcome reached.

Structure of submissions

- 7 These submissions address:
 - (a) Background, including PC17;
 - (b) Discussion of the relief sought;
 - (c) Amendments sought by other submitters – Lot 200 access
 - (d) Statutory assessment; and

(e) Conclusion.

Background

MLC land holdings

8 MLC's submission particularly relates to two lots within the Mill Road Development Area, 38 Kintyre Lane (5.23 hectares) and 21 Kintyre Lane (4.94 hectares), as well as an access lot, referred to as **Lot 200**, connecting to Mill Road in the location of the 'Primary Road if Kintyre Lane is not formed as public road' shown on the ODP. Kintyre Lane is not vested as legal road. These landholdings are further detailed in the evidence of Ms Winder.¹

Plan Change 17

9 As noted above, the land was originally rezoned through PC17 to the OWDP. In assessing submissions, the Reporting Officer, Mr Buckley (**Officer**) appears to attribute considerable weight to maintaining the PC17 consent order outcome, with reference to Peter Wilson's statement in the Officer's Report for Hearing Stream 10A.²

10 In response to questions from the Panel³ regarding the relevance of consistency with the PC17 consent order to the consideration of submissions on the PWDP, the Officer⁴ has provided a preliminary response stating that he has referred to the PC17 consent order as this was informed by specific assessment of the character of the area. He acknowledges that this was an assessment of the OWDP and there are other relevant documents to consider (referring to the CRPS and the NPS-UD).

11 In our submission the PC17 outcome provides relevant background, but it does not set the future of the Mill Road Development Area in stone. It is potentially useful to consider the reasons for the current provisions as established through PC17, and whether there is any change or new information that would support a change to that outcome. However, ultimately the district plan review process provides an opportunity to make changes to the provisions where the amended provisions would be more appropriate, as determined in accordance with the statutory decision making framework set out below at paragraph 46.

¹ Evidence of Terri Winder at [6]

² Stream 10A Officer's Report at [195]. Mr Wilson states that he does not support a reduction in allotment size which would be inconsistent with the PC17 consent order.

³ Minute 26, dated 30 May 2024

⁴ Council Officer's Preliminary Response, dated 27 June 2024, at [4]

- 12 In order to understand the potential relevance of the PC17 outcome, we provide further detail about this process below.
- 13 PC17 rezoned 52.5 hectares of land situated at Mill Road and Threlkelds Road, Ohoka (now the Mill Road Development Area) from Rural to Residential 4A. MLC was a lead proponent of PC17, which applied to land in multiple ownership, the majority of the area having been the subject of an earlier rural subdivision.
- 14 PC17 initially sought rezoning of a larger area, with a higher development density, that would have provided for up to 150 lots. A particular focus at the Council level hearing was the effect of the proposed development on the character and amenity of Ohoka. In order to address these concerns, the applicant proposed a number of provisions intended to mitigate landscape, character and amenity effects, including requirements for character streets and detailed landscaping (planting and fencing) provisions to apply within lots.
- 15 The Panel issued an interim decision which concluded that, although the proposal would result in a quality urban environment with a high level of amenity, the scale of the plan change as proposed would not meet the OWDP policy direction, including direction to maintain or enhance the existing environment, the Panel having particular regard to the character and amenity values of Ohoka at that time.⁵ However, the Panel did consider that a reduced and revised version of the plan change may have enough merit to be approved.⁶ In particular, the Panel directed the deletion of all existing allotments with frontage to Threlkelds Road, and a consequential revision to remove the roading connections to Threlkelds Road.⁷ The applicant amended its proposal (although the rear part of one of the Threlkelds Road allotments were retained) and the Panel issued a final decision approving the reduced proposal.
- 16 The PC17 outcome approved a detailed ODP and a number of site-specific zone rules, including,⁸ as relevant to MLC's submission:
 - (a) Two different density areas, with minimum lot sizes of 1 hectare (Area A) or 4,000m² (Area B), together with a requirement for an average lot size of 5,000m² and a maximum of 81 lots within the Mill Road Development Area.
 - (b) A requirement that there be a single road connection to Mill Road, to be provided at one of two alternative locations. The first option was Kintyre

⁵ Interim decision at [23] – [41]

⁶ Interim decision at [118]

⁷ Interim decision at [119]

⁸ For more detail, see Evidence of Terri Winder at [22]

Lane, which is an existing formed lane but has ownership issues which currently create an impediment to it becoming a legal road. The alternative was a new connection, to the west of Kintyre Lane (in the location of Lot 200);

- (c) ODP notations identifying "character streets with landscaping and planting provisions". The landscaping and planting provisions were originally guided by more detailed ODP layers proposed by the applicant, however these layers were not adopted by the Panel⁹ in its final decision and do not form part of the ODP in either the OWDP or PWDP. As a result, there is no guidance in the OWDP as to the requirements for the "character streets with landscaping and planting provisions" identified on the ODP. For example, there are no requirements about the number, size /height, or type of plants / trees to be planted along the road.¹⁰
 - (d) Requirements for 10m building setbacks and tree planting within the setbacks, generally located along the Mill Road, and on parts of the north and east boundaries with adjacent rural zoned land.
- 17 The decision was appealed to the Environment Court. Appeals related to: the extent of the 1ha density area within the Macdonald's land; esplanade reserve requirements; the extension of roading shown on the ODP; policy provisions relating to the low lying nature of the site; minimum site frontage widths on Mill Road; and amendments to the landscaping provisions applying within lots. Amendments to provisions to address all of these matters were agreed and the rezoning was ultimately confirmed by consent order¹¹. We note that none of the provisions that MLC now seeks to amend were the subject of an appeal or the consent order.

Development and environmental changes following the approval of PC17

- 18 Since PC17 was approved in 2013, the Ohoka settlement has had a notable increase in residential development undertaken or enabled. Mr Head observes that the most obvious change has been the rezoning of what was known as the Bagrie Block, which is now the Bradleys Road, Ohoka Development Area (**Bradleys Road Development Area**), enabling the formation of approximately 30 buildable lots to date.¹² Mr Head notes that the Bradleys Road Development Area contains some

⁹ Final decision, Appendix 2

¹⁰ Evidence of Terri Winder at [23](c)

¹¹ Evidence of Terri Winder at [21]

¹² Evidence of Jeremy Head, dated, at [19]. The maximum number of allotments in the Bradleys Road Development Area is 55.

lots close to the 2,500 m² minimum lot size that MLC are seeking for Area B, while others are similar to the 5000 m² average lot size. Mr Head considers that the Bradleys Road Development Area provides a strong precedent for a reduction in some lot sizes within the Mill Road Development Area, given the very similar development pattern adjoining, with the same Large Lot Residential zoning.¹³

- 19 Within the Mill Road Development Area, the first stages of development have occurred along Mill Road, with subdivision creating six new lots together with access Lot 200. As detailed further below, subsequent stages of the development are currently dependent on the extension of roads and services from Lot 200.

Relief sought

- 20 In summary, MLC seeks to:

- (a) Amend the built form standards for site density (DEV-MILL-BFS1) and the ODP to provide that Area B has a minimum lot size is 2,500m² (instead of 4,000m²);¹⁴
- (b) Amend the ODP to replace Area A (minimum lot size 1ha), in the centre of the Mill Road Development Area, with Area B;¹⁵;
- (c) Delete reference to "character street with landscaping & planting provisions" on the ODP;¹⁶ and
- (d) Amend the proposed ODP to provide a 'Local Road with potential primary pedestrian & cycle route' connecting from the rear of the Mill Road Development Area through 53 Threlkelds Road.¹⁷

- 21 The Officer has recommended that all of MLC's submission points be declined.

- 22 We address these amendments in further detail below.

¹³ Evidence of Jeremy Head, dated 5 March 2024, at paragraph 20.

¹⁴ Submission 409.1

¹⁵ Submission 409.2

¹⁶ Submission 409.2

¹⁷ Submission 409.2; Evidence of Terri Winder at [23](d), Figure 3

Minimum lot sizes – Area B

- 23 MLC has sought that the minimum lot size for Area B be amended to 2,500m². No changes are proposed to the maximum number of allotments (81), minimum allotment size for Area A (1ha), or the minimum average allotment size (5,000m²).¹⁸
- 24 In support of this amendment:
- (a) The proposed minimum lot size and average lot size are consistent with those that otherwise apply through the LLRZ;
 - (b) The minimum lot size is also consistent with the minimum lot size that applies in parts of the adjacent Bradleys Road Development Area; and
 - (c) The amendment is supported by the evidence of Jeremy Head in respect of landscape and visual effects. He finds that the balance of built development versus open space and greenery will remain the same. Overall, Mr Head's opinion is that the change will have neutral effects, due to the fact that some parts of Area B will be more intensively developed than what is currently provided for, balanced with the fact that some parts of Area B will be less intensively developed than what is currently provided for in the MILL provisions.¹⁹ We note that comment was not sought from the Council's landscape peer reviewer, Mr Read, in respect of this submission point.
 - (d) The amendment is also supported by the evidence of Terri Winder in respect of planning matters. Assessing the changes against relevant objectives of the PWDP, Ms Winder finds that through the amendment, the development will foster an integrated pattern of land use, development, and urban form that provides for anticipated land use and density in a manner that achieves the identified future character, form, and function of the LLRZ, without undermining the perimeter rural character.²⁰
- 25 The Officer does not support the amendment. Addressing the reasons for that position:
- (a) The Officer does not agree with the planning assessment that the change in minimum allotment size to align with the minimum LLRZ size will provide a greater range of allotment typologies on the site. However, that is the inevitable outcome of reducing minimum allotment sizes while retaining the average lot size across the Mill Road Development Area. Some lots will be

¹⁸ Evidence of Terri Winder at [23]

¹⁹ Evidence of Jeremy Head at [36]

²⁰ Evidence of Terri Winder at [23](b)(iii)

smaller, and this will need to be balanced by some larger lots in order to meet the required average lot size.

- (b) The Officer goes on to state that "while these are minimums, the allotment sizes and layout was determined by the PC17 decision". MLC's position is that the subsequent rezoning of adjacent Bradleys Road Development Area, including the provision for minimum lot sizes of 2,500m² in some areas, is a relevant change to the surrounding environment that warrants reconsideration of the appropriateness of the Mill Road Development Area minimum lot sizes. Mr Head considers that the expected development pattern would not be dissimilar to that within the Bradleys Road Development Area.²¹ Further, retention of provisions requiring a maximum of 81 allotments and average lot size of 5,000m² will retain the overall density of development approved through PC17. As noted above, the evidence of Mr Head is that the change will have neutral effects.

- (c) The Officer and the Council Engineer, Mr Aramowicz, raise concerns regarding the potential for densification in areas subject to medium flood hazard, with the Council Engineer recommending that "any proposal to densify development rules be rejected as there should be no additional development allowed in areas of medium flood hazard".²² MLC is not proposing to increase the overall density of the Mill Road Development Area. Redistribution of density provides flexibility to reduce density in areas subject to overland flow paths. It is submitted that the redistribution of density is a matter of design, which will be determined at subdivision stage. We note:
 - (i) The PWDP takes a risk based approach to the management of activities that may be affected by natural hazards, providing for subdivision, use and development outside of areas of high hazard areas for flooding where it can be demonstrated that risk to life and potential for building damage is low; or minimum floor levels are incorporated into the design to avoid risk to life and potential for building damage; risk from flooding to surrounding properties is not significantly increased and the net storage capacity is not reduced; and the ability for the conveyancing of flood waters is not impeded (NH-P4).

 - (ii) The Urban Flood Assessment Area (**UFAA**) overlay applies to the majority of the Mill Road Development Area. New buildings in the UFAA are a permitted activity where they do not exceed the permitted

²¹ Evidence of Jeremy Head at [23]

²² Appendix D, Engineering assessment, at [82].

coverage for the zone and they have obtained a Flood Assessment Certificate issued in accordance with NH-S1, requiring compliance with the specified finished floor level and that the building is not located within an overland flow path (NH-R1). Alternatively, where compliance with NH-R1 is not achieved, resource consent must be obtained. Matters of discretion include the setting of minimum flow levels and other inundation that will occur on site; frequency and extent of predicted damage; alternative access where site access is compromised; extent of flood water displacement or flow path disruption to other sites; and the extent of flood mitigation measures proposed (NH-MD1).

- (d) The Officer comments that "no explanation has been provided as to what happens to the extra land."²³ We assume that the Officer is referring to a situation where early stages of the development include a high proportion of lots at the minimum lot size, absorbing all of the 81 lots before the final stages of development occur. Council's ability to manage this outcome through the subdivision process is addressed in the evidence of Ms Winder.
- (e) In response to the Panel's questions regarding the relevance of PC17,²⁴ the Officer responds that no further evidence was received in respect of the establishment of smaller lots at the time of writing the Officer's Report, so his recommendation preferred the notified version of provisions²⁵. MLC has clearly provided evidence which supports the changes to provisions which would allow for smaller lots, as discussed later in these submissions.

Central density Area A

26 MLC seeks removal of the central Area A, so that land would fall within Area B. The assessment of this change is summarised below.

27 In relation to landscape, visual effects and character:

- (a) Mr Head explains that initially the underlying intent for Area A was to use these larger lot areas as a 'transition zone' reduce the effects of the Residential 4A pattern of development on the surrounding Rural Zone and Mill Road.²⁶ However, the central Area A has no 'transition zone' benefit and instead will serve future occupants in the surrounding Area B, contributing a

²³ Officer's Report at [316]

²⁴ Minute 26, dated 30 May 2024

²⁵ Council Officer's Preliminary Response, dated 27 June 2024, at [321]

²⁶ Evidence of Jeremy Head at [29]

'quasi-rural' internal aspect for these people.²⁷ The central Area A has little benefit to neighbours (beyond the Mill Road Development Area), or public / rural outlook as this part of the ODP is largely separated from the surrounding Rural Zone by 30 Kintyre Lane and cannot be easily seen from Threlkelds Road, if at all.²⁸

- (b) Mr Head's evidence is that the change will have 'neutral' effects, because the numbers of dwellings, the primary generator of potentially adverse visual effects, will be no different than what is currently provided for.²⁹
- (c) Council's landscape peer reviewer, Mr Read,³⁰ agrees that the change to the central Area A is not highly significant overall to the proposed LLRZ residential layout of the wider site. He concludes that this might reduce the potential semi-rural experience of the walking network, but not to a significant degree.

28 In relation to flood hazard:

- (a) It is not clear whether the issues raised by Council's Engineer regarding densification within medium flood risk areas, as summarised above, relate to the change to the central Area A. However, we note that the central Area A is within the area of low flood hazard as identified in Figure 27 of the Officer's Report.
- (b) As noted above, the Officer does not support changes to minimum lot sizes (which we assume includes removal of the central Area A) on the basis that this is inconsistent with the PC17 decision.³¹ Relevantly, the PC17 Panel's final decision recorded:

30. It is apparent that the applicants have taken on board the comments in our interim decision about rural outlook within the plan change area. On that basis they have included a section of "Area A" with a minimum lot size of one hectare in the middle of the plan change area as well as along the Mill Road frontage and on the north-eastern edge of the plan change area. The balance area, including the north-western edge to the property at the end of Keetley Place and to the Bagrie property, as well as the sections of the south-eastern edge that are not in Area A, is shown as "Area B" with a minimum lot size of 4,000m².

²⁷ Evidence of Jeremy Head at [30]

²⁸ Evidence of Jeremy Head at [32]

²⁹ Evidence of Jeremy Head at [36]

³⁰ Section 42A report – Appendix I Landscape – Memorandum of Jon Read, page 4

³¹ Officer's Report at [321] and [323], Officer's Preliminary Response, dated 27 June 2024, at [321]

31. While perhaps not necessary, the consensus view of the Commissioners is that this lower density area should be appropriate in this location.

In our submission, the central Area A simply reflects an attempt by the PC17 applicants to address perceived concerns of the PC17 Panel, which the Panel ultimately determined was not necessary, but would be approved. This is not a strong basis for retention of Area A.

- 29 Finally, we note that the combination of this submission point and the one above regarding the minimum lot size of Area B would result in this central area having an amended minimum lot size of 2,500m². For the avoidance of doubt, if the Panel does not agree with the amendment to the minimum lot size in Area B, MLC continues to seek removal of the central Area A, which would result in this area having an amended minimum lot size of 4,000m², consistent with the remainder of Area B.

Removal of ODP notation - Character streets with landscaping and planting

- 30 The current ODP includes a notation for 'Character Streets with Landscaping & Planting Provisions'.
- 31 Mr Head considers that deletion of the 'character street with landscaping and planting provisions' notation from the ODP will have a minimal detrimental effect on the landscape character and amenity of the Mill Road Development Area. He notes that individual lots will likely be developed with gardens and a variety of high amenity planting, which will be clearly visible from the internal ODP road network.³² Rules in the PWDP afford some protection for landscape character in relation to height and transparency of fences, and similarly hedges on road boundaries, that will provide for views into individual lots which will likely be vegetated to some degree.³³
- 32 Council's landscape architect does not support the deletion of these provisions, stating that it should remain if it was initially supported and/or approved by Council and/or community representatives at the time.³⁴ As addressed above, the character street requirements were originally proposed by the PC17 applicants as part of a package of provisions relating to the original, much larger, PC17 proposal. Although the notation remains on the ODP, the PC17 Panel did not include the corresponding ODP layers which provided direction on the character street requirements, and accordingly there is no direction in the OWDP as to what these

³² This situation is currently evident in the neighbouring Residential 4a Zone to the north of the site for the ODP (Attachment 2).

³³ Evidence of Jeremy Head at [38]

³⁴ Appendix I – Landscape Assessment at p4

requirements are. In our submission, the PC17 decision provides no support for the retention of this notation.

- 33 Council's Transportation Engineer, Mr Binder, did not agree with the removal of 'street trees' as part of the submission, and stated that they provided a greater level of benefit to the road network, including positive traffic safety outcomes.³⁵ As relevant to transport engineering expertise, Mr Carr addresses the benefits of tree planting for transport safety in his supplementary evidence. He concludes there are no traffic and transportation reasons that mean the 'character' aspects of the roadway in Lot 200 must be retained. He also considers that there is not a strong case for the trees leading to a reduced operating speed, and such a speed reduction can be achieved by other means.³⁶
- 34 In respect of PC17, Mr Binder states that "I understand from my review that the applicants at the time proposed the requirements for a "character street with landscape and planting" and that the Final decision focused heavily on related plantings and landscape in the proposed road corridor (para.13 and 27)". The paragraphs Mr Binder refers to discuss the width of pedestrian connections but make no comment on planting provisions.
- 35 Finally, we note that Mr Binder makes reference to street tree plantings being a requirement of the OWDP. While that is correct, we have not located any corresponding provisions in the PWDP (and Mr Winder makes no reference to such provisions). We submit that a consistent approach, of removing street tree planting requirements from the PWDP, should be taken in respect of the Mill Road Development Area.
- 36 In our submission the current ODP notation is unnecessary, uncertain and ineffective. Accordingly, it should be removed.

Threlkelds Road connection

- 37 MLC proposes an additional link to the Mill Road Development Area via Threlkelds Road. This would provide an alternative to the Mill Road connection and would better enable development throughout the Mill Road Development Area. As noted above, access is currently dependant on the development and extension of road and services from Mill Road via Lot 200. While a roading connection through the Bradleys Road Development Area is provided for on the respective ODPs, this is also beyond the control of land owners within the Mill Road Development Area.

³⁵ Appendix F –Transport Advice of Shane Binder, at page 4

³⁶ Supplementary Evidence of Andy Carr at [29]

- 38 The proposed access is supported by the evidence of transport engineer Mr Carr. Mr Binder states that he does not have any concerns with the conclusions reached by Mr Carr³⁷ and that a new tee intersection could be relatively safely managed provided that it is located a safe distance from existing intersections and driveways and met relevant Council and best practice standards.
- 39 The Officer raises that a Threlkelds Road connection was originally proposed in PC17 and later removed. This was the result of the overall reduction in the plan change area, including the removal of land fronting Threlkelds Road. Ms Winder concludes that an additional access point off Threlkelds Road is logical and fosters compact and coordinated urban form.³⁸

Amendments sought by other submitters - Lot 200 access

- 40 Reece Macdonald (Submission point 308.3) opposes the development of Lot 200 as a road, stating that it will have a significant adverse effect on the use and enjoyment of their property (including noise and security concerns) which adjoins Lot 200. The Officer has recommended that Mr Macdonald's submission be accepted.
- 41 The ODP provides two alternatives for road access to the Development Area, one being a road in the location of Lot 200 and the other being Kintyre Lane. Kintyre Lane was established through an earlier subdivision of a wider area. Kintyre Lane is not vested as legal road. The initial part of the lane is held in eight shares by landowners within the original subdivision area, some of which sit outside of the Mill Road Development Area. While Kintyre Lane is formed and provides physical access to some properties within the Mill Road Development Area, the ownership structure for the initial part of the lane has prevented it from becoming a public road or being more widely used to access additional lots within the Mill Road Development Area. MLC does not anticipate these issues being resolved in the foreseeable future.
- 42 Given the inability to form Kintyre Lane as public road, further development within the Mill Road Development Area is currently entirely reliant on development of the road over Lot 200.
- 43 Provision for access to the Mill Road Development Area via Lot 200 has been confirmed through PC17 and this provision has been in place for over a decade. MLC emphasises that without road access via Lot 200, further development will be prevented across the majority of the Mill Road Development Area. Given the significant implications of this change for development of the remainder of the Mill

³⁷ Appendix F – Transport Advice of Shane Binder, at p4

³⁸ Evidence of Terri Winder at [13]

Road Development Area, and the land owners within this area, an amendment to the access provision confirmed through PC17 is not the most appropriate outcome.

- 44 In recommending that Mr Macdonald's submission be accepted, the Officer states that Lot 200 is of insufficient width to accommodate the traffic and character components of a road.³⁹ This statement is not supported by any statement in the transport assessment provided by Mr Binder.
- 45 The ability to form and use Lot 200 as public road to access the development enabled within the Mill Road Development Area is addressed in the supplementary evidence of Mr Carr. Mr Carr confirms that there is ample width to form a road within Lot 200.⁴⁰

Statutory tests

- 46 The statutory tests when preparing and changing a district plan are as set out in *Colonial Vineyard Ltd v Marlborough District Council*,⁴¹ applied and summarised in subsequent decisions.⁴² In summary, these relevantly require that the MILL Provisions:
- (a) Accord with and assist Council in carrying out its functions, including:
 - (i) Achieving integrated management of effects of the use, development and protection of land and associated natural and physical resources; and
 - (ii) Controlling any actual or potential effects of the use, development, or protection of land, including for the purposes of the avoidance of natural hazards;
 - (b) Have regard to the actual and potential effects on the environment, including in particular any adverse effect;
 - (c) Accord with Part 2 of the Act;
 - (d) In respect of the existing statutory documents:

³⁹ Officers Report at [330]

⁴⁰ Supplementary evidence of Andy Carr at [14] – [25]

⁴¹ *Colonial Vineyard Ltd v Marlborough District Council* [2014] NZEnvC 55 at [17] onwards.

⁴² See also *Adams and Others v Auckland Council* [2018] NZEnvC8 at [53]; and more recently in *Trojan Holdings Limited and Skyline Enterprises Limited v Queenstown Lakes District Council* [2020] NZEnvC 79 at [23]; *Edens v Thames-Coromandel District Council* [2020] NZEnvC 13 at [10].

- (i) Give effect to any national policy statement or operative regional policy statement;
- (ii) Have regard to any proposed regional policy statement, and management plans and strategies prepared under any other Acts; and
- (iii) Establish the most appropriate method for achieving the objectives and policies of the District Plan, undertaking the assessment detailed in section 32.

47 We address these requirements below.

48 *Assisting Council to carry out its functions:* The deletion of the ODP notation for "character streets with landscaping & planting provisions" will assist Council in undertaking its functions in administering the PWDP, by removing existing uncertainty as to the landscape and planting requirements. The amendments sought will otherwise not impact Council's ability to carry out its functions. As discussed above, other provisions of the PWDP are sufficient to address the Officer's concerns regarding the density of development and location of development with respect to overland flow paths. The changes sought have no impact on servicing or infrastructure.⁴³

49 *Management of effects:* The evidence of Mr Carr, Mr Head and Ms Winder confirms that the amendments sought with respect to changes to minimum lot sizes, amendment to the ODP to remove of central Area B, removal of the 'character streets with landscaping and planting provisions', and provision for a road connection to Threlkelds Road, will provide for the appropriate management of effects.

50 *Giving effect to higher order planning documents:* Given the nature of the amendments sought by MLC, relating to matters of detail for the development of land with existing large lot residential zoning, it is submitted that there are no higher order planning documents of particular relevance to determination of MLC's submission.

51 *The most appropriate to achieve the objectives and policies of the PWDP:* Ms Winder has undertaken a s32AA assessment of the amendments sought, including assessment against the objectives and policies of the PWDP. Ms Winder concludes that the amendments to the MILL Provisions are the most appropriate way to achieve the objectives of the PWDP, having regard to other reasonably practicable options for facilitating development across the Mill Road Development

⁴³ Officer's Report Appendix D – Engineering Assessment of John Aramowicz, at [83] – [84]

Area, while also enabling a more efficient use of land within the Mill Road Development Area.⁴⁴

- 52 The Officer includes in his reasons for recommending the rejection of the MLC submission points, "inadequate assessment as to why street character provisions need to be removed and how it best meets the provisions of the Proposed Plan, in particular REZ-P12(2)(d)".⁴⁵ The reason for seeking removal of the street character provisions is that they are uncertain and unnecessary. This is addressed in the evidence of Mr Head,⁴⁶ Mr Carr⁴⁷ and Ms Winder.⁴⁸

Conclusion

- 53 The issues raised in the Officer's Report have been clarified or otherwise addressed through the evidence presented in support of MLC's submission. On that basis, the Officer's recommendation to refuse MLC's submission points should be rejected.
- 54 MLC respectfully requests that the changes it proposes to the ODP and MILL Provisions be accepted.

Dated 12 July 2024



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⁴⁴ Evidence of Terri Winder at [15]

⁴⁵ Officer's report at [330]. Note: This is a typographical error and should read RESZ-P12(2)(d)

⁴⁶ Evidence of Jeremy Head at [37] – [39]

⁴⁷ Supplementary evidence of Andy Carr at [7] – [13]

⁴⁸ Evidence of Terri Winder at [15] and [23](c)