

Before the Independent Commissioners appointed by the Waimakariri District Council

In the matter of Proposed Waimakariri District Plan: Ohoka Rezoning
(Hearing Stream 12D)

and

In the matter of Further submission by the Oxford Ohoka Community Board
[further submitter 62] to the Rolleston Industrial
Developments Limited [submitter 160] and Carter Group
Property Ltd [submitter 237] submission to Rezone land at
Ohoka

Legal submissions on behalf of Oxford-Ōhoka Community Board

Dated: 20 June 2024

Andrew Schulte (andrew.schulte@cavell.co.nz)
Counsel for further submitter

CavellLeitch >
LIMITED

AJS-434615-182-57-V1

Level 3, BNZ Centre
111 Cashel Mall
PO Box 799, Christchurch
T: +64 3 379 9940 F: +64 3 379 2408

Legal submissions for Waimakariri District Council (as submitter):

Introduction

1. These legal submissions are presented on behalf of the Oxford-Ōhoka Community Board (**Board**), a further submitter (FS62) to submissions by Rolleston Industrial Developments Limited (submission 160) and Carter Group Property Ltd (submission 237) (collectively: **submitters**) to rezone land at Ōhoka under the Proposed Waimakakriri District Plan (**PWDP**).
2. The Board's opposition to the proposed rezoning is the product of genuine concerns regarding the suitability of the proposed site at Ōhoka for the level of intensification that is sought; and the Board's opinion that the issue of intensification in this location is not, in fact, unanticipated but rather has been actively considered previously and rejected, including as part of the recently consider Private Plan Change 31 (**PC31**), which was declined¹.
3. In addition, the planning processes that have been put in place over many years and are currently being considered as part of this PWDP process, have been widely canvassed and consulted on with the local and wider community. They represent a rational and sound approach to the planning issues that need to be confronted, and have concluded that the Rural Living Zone (**RLZ**) is appropriate for the site of this proposed rezoning. The Board supports that conclusion.
4. The Board also considers that enabling the degree of intensification proposed to proceed at Ōhoka may result in an opportunity cost in terms of the Waimakariri District Council's (**Council**) ability to provide for the more intensive development elsewhere in the district, in greenfield priority areas, as well as areas adjacent to existing urban areas that are, and are expected to grow as, predominantly urban areas under the PWDP.
5. The *potential* significance of the proposed development is generally accepted but on the basis that this *does not* overcome the issues with the site and *does not* mean that the proposal *must* be granted, on the basis of the National Policy Statement on Urban Development (**NPS-UD**) or otherwise.

¹ RCP031 Independent Hearing Panel Decision Report, dated 27 October 2023.

Contents

6. These submissions discuss the following:
 - 6.1. Interpretation.
 - 6.2. The NPS-UD:
 - 6.2.1. Applicability:
 - 6.2.1.1. The NPS-UD and the CRPS.
 - 6.2.1.2. The NPS-HPL.
 - 6.2.2. The NPS-UD – Substance:
 - 6.2.2.1. Objectives highlighted by the submitters (3, 4, and 6).
 - 6.2.2.2. Policies and implementation.
 - 6.2.2.3. Importance of being well-connected.
 - 6.2.2.4. Does the proposed rezoning contribute to a well-functioning urban environment?
 - 6.2.2.5. Significant development capacity.
 - 6.3. Place of character.
 - 6.4. Strategic incompatibility:
 - 6.4.1. The draft Greater Christchurch Spatial Strategy.
 - 6.4.2. The District Plan.
 - 6.5. Development contributions, Developer agreements and potential burdens for ratepayers.
 - 6.6. Conclusions.

Interpretation

7. The relevant provision of the PWDP and the NPS-UD, as planning documents, are to be interpreted purposively and in accordance with the Court of Appeal's decision in *Powell v Dunedin City Council*². In particular, in relation to the role of the plain and ordinary meaning of words and the need to consider those words in context. The Court held (at paragraph [35]) that:

... While we accept it is appropriate to seek the plain meaning of a rule from the words themselves, it is not appropriate to undertake that exercise in a vacuum. As this Court made clear in *Rattray*, regard must be had to the immediate context (which in this case would include the objectives and policies and methods set out in [relevant] section of the plan) and, where any obscurity or ambiguity arises, it may be necessary to refer to the other sections of the plan and the objectives and policies of the plan itself. Interpreting a rule by a rigid adherence to the wording of the particular rule itself would not, in our view, be consistent with a judgment of this Court in *Rattray* or with the requirements of the Interpretation Act.

8. Accordingly, the immediate context is always relevant, not only in cases of doubt. For the NPS-UD, the immediate context must include all its objectives and policies.
9. In addition, the High Court in *Nanden v Wellington City Council*³ also indicated that in cases of obscurity or ambiguity, interpretations should be preferred that:
 - 9.1. avoid absurdity:
 - 9.2. accord with the expectations of landowners: and
 - 9.3. are consistent with efficient administration.
10. It is also appropriate to consider the place of guidelines (such as the Ministry for the Environment Guidelines on the NPS-UD (**guidelines**)) in the process of interpretation. While these may be a good starting point, as the guidelines themselves indicate, they are not part of the planning document and do not constitute legal advice⁴.

² [Powell v Dunedin City Council \[2004\] NZCA 114; \[2005\] 11 ELRNZ 144; \[2004\] 3 NZLR 721; \[2005\] NZRMA 174 \(1 July 2004\) \(nzlii.org\)](#)

³ [2000] NZ 562 (HC)

⁴ [Understanding and implementing responsive planning policies \(environment.govt.nz\)](#), states in the 2nd paragraph that: "It is not part of the NPS-UD and is not legal advice".

11. The need for decision makers to reach their own conclusions on the meaning of provisions in planning documents, within the parameters of *Powell and Nanden*, was confirmed in *Gray v Dunedin City Council*⁵ where the Environment Court noted:

[206] ... We refer to the High Court's observation [in *Opoutere Ratepayers and Residents Association v Waikato Regional Council* [2015] NZEnvC 105, at [97]] on the relevance of the Guidance Notes published by MfE for the NZCPS 2010 which we respectfully agree with and are in any event bound by:

The first question is what status should be given to the Department of Conservation's Guidance Notes. It is clear that they have no statutory basis, and that whilst helpful, they are not legally binding on the Court as necessarily properly interpreting the provisions of either the Act or the NZCPS. Whilst the Supreme Court may have referred to the Guidance Notes, not surprisingly it did not determine that the Guidance Notes are determinative, and indeed the Guidance Notes themselves include a disclaimer that they are not a substitute for legal advice, neither are they official government policy.

[207] This position is further reflected in subsequent decisions of the Environment Court, including in *Federated Farmers of New Zealand v Northland Regional Council* [[2022] NZEnvC 16].

12. In other words, it is the words, purpose, and context of the NPS-UD that matter.

The NPS-UD

13. The NPS-UD was promulgated in response to housing affordability and supply issues. Its objectives are:

Objective 1: New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.

Objective 2: Planning decisions improve housing affordability by supporting competitive land and development markets.

Objective 3: Regional policy statements and district plans enable more people to live in, and more businesses and community services to be located in, areas of an urban environment in which one or more of the following apply:

⁵ [Gray v Dunedin City Council \[2023\] NZEnvC 45 \(14 March 2023\) \(nzlii.org\)](#)

- (a) the area is in or near a centre zone or other area with many employment opportunities
- (b) the area is well-serviced by existing or planned public transport
- (c) there is high demand for housing or for business land in the area, relative to other areas within the urban environment.

Objective 4: New Zealand’s urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.

Objective 5: Planning decisions relating to urban environments, and FDSs, take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

Objective 6: Local authority decisions on urban development that affect urban environments are:

- (a) integrated with infrastructure planning and funding decisions; and
- (b) strategic over the medium term and long term; and
- (c) responsive, particularly in relation to proposals that would supply significant development capacity.

Objective 7: Local authorities have robust and frequently updated information about their urban environments and use it to inform planning decisions.

Objective 8: New Zealand’s urban environments:

- (a) support reductions in greenhouse gas emissions; and
- (b) are resilient to the current and future effects of climate change.

14. The Board’s position is that the purpose of the NPS-UD is to require local authorities to ensure that planning decisions weren’t adversely affecting property values. In other words, that supply, or capacity, could keep up with demand.
15. However, the Board says it is not the case that NPS-UD gives carte blanche for development, even if significant, anywhere. The ability to have new development capacity approved, especially unanticipated, or out of sequence development, depends on several factors. In particular, whether the development will *contribute to a well-functioning urban environment*, but also whether it can be provided for, with current or planned (and funded) infrastructure and transport connections, amongst its other important goals.
16. In addition, given the parameters around more growth in areas that are centrally located, well serviced by public transport and where the area has *high* demand, relative to other areas, the expectation is that most additional

development should be located adjacent to, or as an extension to, existing urban areas with those attributes. That there is this expectation is borne out by three factors. The first is that the definition of urban environment makes this connection apparent, second that the need to be either infrastructure ready, or soon to be so, and thirdly, that this is what has happened in practice.

Applicability – an urban environment

17. Unsurprisingly, the NPS-UD is intended to apply to “urban environments”, but not all urban environments. As the definition notes:

urban environment means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:

(a) is, or is intended to be, predominantly urban in character; and

(b) is, or is intended to be, part of a housing and labour market of at least 10,000 people

18. The few cases involving the NPS-UD that have progressed through the Courts to date⁶ have not considered this definition, with the area in question being plainly urban.
19. This is a definition that can be broadly applied and has been in areas such as Selwyn. However, while also falling within Greater Christchurch (**GC**), the areas to which the NPS-UD was applied there were all identifiably urban areas in their own rights⁷, the relevance of GC arguably being that it qualified townships that individually had populations of less than 10,000, as parts of a larger housing market.
20. Both parts of the definition must be satisfied, as is demonstrated by the submitters’ fallback position that Ōhoka is also an urban environment in its own right. They say that is because the PWDP includes Ōhoka as an urban area. However, this inclusion is also something of a default position given that the Canterbury Regional Policy Statement defines activities on lot sizes smaller than 4ha as urban. In addition, given the settlement zone STZ that applies at Ōhoka, and which the rezoning proposal seeks to replicate, *is not* subject to the mandated – at this stage in any event – medium density residential standards⁸ (**MDRS**) suggests an acceptance that some areas,

⁶ Specifically: [Eden Epsom Residential Protection Society Incorporated v Auckland Council \[2021\] NZEnvC 82 \(9 June 2021\) \(nzlii.org\)](#) and [Southern Cross Healthcare Limited v Eden Epsom Residential Protection Society Incorporated \[2023\] NZHC 948 \(27 April 2023\) \(nzlii.org\)](#)

⁷ Rolleston, Lincoln, Prebbleton and West Melton

⁸ Inserted into the RMA by the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021

while more urban than rural are simply *not* intended to be predominantly urban.

21. The upshot then is that an area such as Ōhoka, while it may be part of a larger housing market as part of the GC, is an area that on its face is a rural-residential area within a rural zone. To say that it is, or is intended to be, predominantly urban, and thereby should be a candidate for urban intensification on the scale proposed seems to go too far. That the area, following all the discussion and consultation in planning for the PWDP, the area surrounding Ōhoka Village was included as rural lifestyle zone (RLZ) also bares out this point.
22. Another feature of the application of the NPS-UD is its purpose of increased opportunities for additional development adjacent to existing urban areas (with the MDRS increasing development capacity *within* existing urban areas – excluding settlement zones). That purpose does not require or necessarily promote additional greenfield development in more remote locations. This view is also consistent with the need to integrate with planned and funded infrastructure and having access to existing and planned public transport networks.
23. If the NPS-UD applies at Ōhoka as part of the broader GC area, it also raises issues as to scale. Especially when considering the contribution that a development, occupying a small fraction of the area being claimed to be the relevant urban environment, can make to the whole as a well-functioning urban environment. The impression is that even if proposed rezoning might operate well in its own space, its contribution to wider Waimakariri and GC as a well-functioning urban environment will be – relatively – insignificant, with the potential for detraction given the need to respond to servicing and transport issues.
24. The question of scale also arises with the submitters' position that aspects such as capacity must be considered on a district basis rather than a GC wide basis. If the relevant urban environment is the GC, then the NPS-UD requirement, under policy 10, that local authorities need to “work together when implementing this [NPS]”, should equally apply to the implementation of the capacity requirements.
25. The definition of urban environment uses the phrase “*predominantly*”, which means an area may also include other non-urban (rural or open space) features but will mostly be, or be intended to be, urban in nature. Again, the picture in GC is skewed somewhat with Christchurch City appearing to make GC appear highly urbanised. Yet the rural aspects in Selwyn and

Waimakariri still retain spatial dominance in those areas and based on the contents of the proposed district plans in both districts, aside from planned urban growth (including plan changes attached to townships), they are *intended* to remain predominantly rural. That includes areas that cater for rural lifestyle. As discussed below the New Zealand Planning Standards (**Standards**) for the Rural Lifestyle Zone makes it clear that it is still a rural zone, within a rural environment.

26. And, in terms of the phrase “*or is intended to be*”, it is not immediately apparent what timeframe this is meant to apply in, or *whose* intention is determinant. Given that most responsibilities in the NPS-UD fall on Councils, it seems logical to infer that it is their intentions, as recorded in strategy documents and plans, including long-term plans that allocate Council funding priorities and intended timeframes, that matter most in this regard. This is also consistent with the importance of a *strategic* approach to urban growth under the NPS-UD. Again, this is touched on below, but for the question of application it indicates that a strategic view remains relevant, if not imperative. To consider Ōhoka an urban environment when there has never been such an intention, rather quite the opposite, seems incongruous.

27. In its decision on PC31, the Commissioners found⁹:

We have on the evidence that Ōhoka township is not in and of itself, nor is it intended to be (as provided for in the ...proposed District Plan), predominantly urban. Ōhoka is not in and of itself a housing or labour market of more than 10,000 people.

However, for the purpose of the NPS-UD Ōhoka township is within the Greater Christchurch Urban Environment and it is part of the Waimakariri and Greater Christchurch housing and labour market of more than 10,000 people.

28. If the Panel agrees with the PC31 Commissioners that Ōhoka represents part of an urban environment (as part of a much broader one), as noted by Mr Boyes¹⁰, that simply provides an opportunity for the proposed rezoning to be considered under the NPS-UD.

29. In addition, it still needs to fulfil the requirements for plan rezonings as set out in *Colonial Vineyards v Marlborough DC*¹¹. Those include:

⁹ RCP031 Independent Hearing Panel Decision Report, dated 27 October 2023 at [52] and [53].

¹⁰ Evidence of Nick Boyes dated 13 June 2024 at paragraph 63.

¹¹ [Colonial Vineyard Limited v Marlborough District Council \[2014\] NZEnvC 55 \(14 March 2014\) \(nzlii.org\)](#) at [17]

- 29.1. giving effect to National Policy Statements, which in this context means, amongst other things, assessing whether particular regard should be given to this rezoning (in terms of responsiveness):
 - 29.2. assessing each proposed policy and method (including rules) with regard to:
 - 29.2.1. their efficiency and effectiveness:
 - 29.2.2. whether they're the most appropriate way to achieve the district plan objectives:
 - 29.2.3. their costs and benefits and the risks of acting or not acting in the face of uncertainty: and
 - 29.3. in respect of new rules, considering the potential environmental effects of those proposed rules, with the existing RMA definition of the environment remaining relevant, if modified to some extent under Policy 6 of the NPS-UD.
30. The fact that potential environmental effects of rules need to be considered does raise the issue of whether leaving aspects of site testing, especially in this case of groundwater levels, should be left until resource consent stage.
31. There are at least three reasons why the Board says that the Panel needs to be particularly sure regarding the outcomes proposed by the proposed rezoning:
- 31.1. The history of the site and the previous conclusions that this level of intensification is not justified at this site as it would be likely to have adverse effects:
 - 31.2. The fact that the submitters are seeking to utilise the responsive provisions and the NPS-UD to overcome the absence of the proposed rezonings strategic compatibility. This should require an applicant to leave no doubt that what they are proposing is appropriate and will, in all circumstances, be the most appropriate way to fulfil the purpose of the RMA: and
 - 31.3. That the nature of potential effects, in particular as they relate to constraints on transport, wastewater and stormwater. These carry the potential that an inability to effectively mitigate effects or provide infrastructure could limit the ultimate total of dwellings that can be built, thereby undermining the overall significance of the proposal, as judged under the NPS-UD.

32. Without a more detailed understanding of the existing environment and potential effects from the proposed rezoning, it is difficult to assess whether potential solutions are likely to be effective, and therefore viable.

The NPS-UD and the CRPS

33. The submitters' prior arguments on the tension between the NPS-UD and the CRPS may be summarised as follows:

- 33.1. given the hierarchy of planning instruments under the RMA, and the requirement for regional policy statements to give effect to national policy statements:
- 33.2. the NPS-UD requirement for responsiveness means the direction in the CRPS to avoid greenfield developments outside of identified areas (unless specifically provided for), should be read down with any 'gap' filled with words enabling exceptions, where the NPS-UD applies.

34. The contrary argument is that:

- 34.1. by virtue of Change 1 to the CRPS, Environment Canterbury (**Ecan**) and its GC partners have already given effect to the NPS-UD by identifying additional areas for urban expansion,
- 34.2. this means the requirement to avoid additional greenfield development remains applicable and should be given particular regard under Policy 6 of the NPS-UD:
- 34.3. the need for further greenfield development capacity has already been met with sufficient identification of development potential and capacity for projected demand: and
- 34.4. given the stage of the Proposed Waimakariri District Plan (**PWDP**) process, still further development capacity may yet be identified.

35. The latter argument has been promoted by Environment Canterbury and the Christchurch City Council in the series of plan changes applied for within Selwyn District, but has not found favour. It not known whether Ecan is running a similar argument before the Panel. The outcome is fundamentally related to the factual findings on whether sufficient capacity is being provided (presumably in GC), an argument the Board is not directly involved in. However, the Board accepts the position in the s.42A report that sufficient capacity has or will be provided under the current process.

36. It should also be noted that, even on the submitters' approach, the CRPS requirement to avoid remains applicable if it was found that the proposed rezoning does not achieve the objectives and policies of the NPS-UD.
37. In addition, even if the requirement to avoid is to be read down, the CRPS remains a relevant consideration as it still needs to be given effect to under the District Plan.

The NPS-HPL

38. The Board accepts the position that, in accordance with the provisions of the NPS-HPL that govern its interim application¹², it does not apply to land in areas where the Council has proposed changing the zoning from rural general to rural lifestyle under the PWDP.
39. The PWDP uses¹³, as it is required to¹⁴, the definition of Rural Lifestyle Zone found in the Standards, which provides:

Rural lifestyle zone	Areas used predominantly for a residential lifestyle <u>within a rural environment</u> on lots smaller than those of the General rural and Rural production zones, <u>while still enabling primary production to occur</u> .
-----------------------------	--

[underlining added]

40. However, to the extent that this changes anything, in terms of anticipated landscape or rural character outcomes, the rezoning makes very little difference. Regardless of the NPS-HPL applying, the PWDP and CRPS provisions on soils and the maintenance of rural character still need to be considered. It is already the case that fragmentation down to 4ha is possible, with the submitters saying that this is the likely outcome if the proposed rezoning is declined¹⁵.
41. Also discuss below are aspects of currently productive land that are sought to be retained and protected at a strategic level, which also suggest that developments such as the proposed rezoning may be considered inappropriate (in addition to unanticipated).

¹² Clause 3.5(7), NPS-HPL 2022

¹³ As detailed in the section of Part 1 to the PWDP entitled *Te whakamahi māhere – how the plan works – General Approach* under the heading Zone names and descriptions. [Proposed District Plan - Proposed Waimakariri District Plan \(isoplan.co.nz\)](https://isoplan.co.nz)

¹⁴ See: National Planning Standards, Part 8. Zone Framework Standard, Mandatory directions [national-planning-standards-november-2019-updated-2022.pdf \(environment.govt.nz\)](https://environment.govt.nz)

¹⁵ It might be more accurate to say that the more immediate effect will be that the Submitter can still pursue the rezoning under the PWDP, on which it has also submitted to achieve the same outcome as PROPOSED REZONING.

The NPS-UD - substance

42. Even if the panel determines that the NPS-UD applies, and that the avoid policy in the CRPS should be read down (as the planning witnesses have anticipated), the proposed rezoning still needs to achieve the relevant requirements of those documents.
43. The submitters have identified that it must show that the proposed rezoning offers significant development capacity and will contribute to a well-functioning urban environment to overcome the CRPS avoid requirement. The Board agrees while noting that this approach appears to overlook or perhaps downplay the need (in order to be given particular regard on an unanticipated basis) for the development capacity to be “well-connected along transport corridors”¹⁶ which, while an undefined term, is taken to mean more than just road corridors, and includes public transport accessibility (which is also an objective of the NPS-UD) and active transport facilities.
44. The Board does not consider that these hurdles have been cleared. Its view is that this failure, as well as other aspects of the NPS-UD that the proposed rezoning does not satisfy or achieve, militate firmly against approval.

Highlighted objectives

45. The submitters have previously focused on Policies 3, 4, and 6. However, Boards says that the objectives must be read as a whole (as should the NPS-UD itself). A summary of the objectives, set out in full above, shows that:
 - 45.1. The principle of well-functioning urban environments is an overarching consideration:
 - 45.2. Improving housing affordability is also a broad goal:
 - 45.3. The expectation is that more development is allowed to occur in areas close to job opportunities, areas well-served by public transport and areas that have a high demand relative to other areas within the urban environment:
 - 45.4. Urban environments will evolve according to changing needs:
 - 45.5. Te Tiriti o Waitangi is to be taken into account:

¹⁶ NPS-UD, 3.8(2)(b)

- 45.6. Decisions should be informed by robust and current information:
and
- 45.7. Reducing greenhouse gas emissions and promoting resilience to climate change is another broad goal.

Objective 3:

46. Objective 3 provides:

Objective 3: Regional policy statements and district plans enable more people to live in, and more businesses and community services to be located in, areas of an urban environment in which one or more of the following apply:

- (a) the area is in or near a centre zone or other area with many employment opportunities
- (b) the area is well-serviced by existing or planned public transport
- (c) there is high demand for housing or for business land in the area, relative to other areas within the urban environment.

47. The submitters identify objective 3(c) as providing the link with the proposed rezoning. They have sought to establish that high demand for housing exists at Ōhoka. However, whether that demand sets Ōhoka apart, relative to other areas, must be more arguable. It is an area where demand for rural residential sites is already high, which is recognised in the proposed rural lifestyle zoning that is included in the PWDP. These hearings for the PWDP will also consider zoning changes that promote more large lot rural residential sections at Ōhoka and elsewhere.
48. Therefore, while the popularity of Ōhoka, based on the levels of amenity and rural character it currently possesses, is accepted, whether that supports the argument that there is also a high demand for more intensive urban sized lots at Ōhoka relative to other areas, is less clear.
49. Here the Board says, again, that the scale of the relevant urban environment comes into play, given the likely availability of similar lot sizes at other locations within the GC area such as Prebbleton and West Melton, areas which are well-connected to transport corridors as is predicated under the NPS-UD.
50. And given Objective 2 the question of high demand also needs to be seen through the lens of the contribution that meeting such 'demand' (if any)

would make to the goal of housing affordability through a competitive market. The submitters' apparent intention, to stage development and the phased release of lots based on growing market demand¹⁷, does not suggest a desire to influence housing affordability, rather to capitalise on market appetite.

51. The existing demand is also another housing typology, which sees people still utilising rural lifestyle sections for some productive uses alongside lifestyle owners who do not rely on rural viability but who are sufficiently separated spatially to avoid reverse sensitivity becoming an issue for rural uses. Areas of larger lot rural residential sections already exist and may be augmented depending on decisions on the PWDP. These also serve a demand.
52. It is apparent through the NPS-UD, the Resource Management (Enabling Housing and Other Matters) Amendment Act 2021, which includes mechanisms for additional intensification under the NPS-UD, and the NPS-HPL, that there is an intention to reduce the reliance on remote urban greenfield development, unless the level of growth is catered for in terms of transport and other infrastructure planning, and contributes to a well-functioning urban environment.
53. Creating a new suburb with larger but still more intensive urban scale lots, which seek to capitalise on the proximity of an area representing the rural idyll, in an existing predominantly rural area where demand for rural living already exists, results in further fragmentation of the rural resource. It also introduces an expectation for urban levels of service which will need to be provided long after the developer has moved on.
54. In addition, the position during the PC31 hearing included, as something of an aside, a reference by the submitters' to utilising covenants to protect levels of amenity. This signalled to the Board that the submitters' were prepared to limit the ability of future residents to capitalise on regulatory opportunities for 'change' while having no issue impacting on the amenities currently enjoyed by people who have established at Ōhoka. Mostly due to the very promise of planned protection of rural character that they value and which is clearly seen as important and requiring protection in an urban setting.
55. Returning to Objective 3(c), the short point is that it is not clear that the submitters have done enough to convince the Board or the Panel that there

¹⁷ Evidence of Garth Falconer dated 5 March 2024 at paragraphs 16 and 58.

is an existing demand for the housing typologies they are promoting at Ōhoka.

Objective 4

56. Objective 4 provides:

Objective 4: New Zealand’s urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.

57. A question raised by objective 4 is what “needs” are being met by the proposed rezoning?

58. Needs mean more than desires or wishes. The use of the terms indicates that for a planning decision to be made that significantly changes existing amenity values, even though such changes in and of themselves may not be an adverse effect, the changes must be in the service of a need. And that may be moreso, for an argument to be made to progress it as an unanticipated need.

59. In the context of the NPS-UD, such needs must include affecting overall housing affordability, providing housing in closer proximity to more opportunities for employment and focusing new development in areas with access to transport options that will encourage mode shift and support reduced emissions. This interpretation is supported by the “*needs of households*” as to type, price and location of development being identified as part of contributing to a well-functioning urban environment under policy 1.

60. Whether the opportunity for a rural village lifestyle is such a “need” may be more questionable.

Objective 6

61. The third objective highlighted by the submitters is objective 6:

Objective 6: Local authority decisions on urban development that affect urban environments are:

- (a) integrated with infrastructure planning and funding decisions; and
- (b) strategic over the medium term and long term; and
- (c) responsive, particularly in relation to proposals that would supply significant development capacity.

62. Unsurprisingly, the submitters' emphasis is on objective 6(c) and its directive that planning decisions be responsive. For infrastructure, the submitters maintain that, based on the guidelines, all that must be shown is viability and the availability of funding, while little is said of the need for integration or a medium- and longer-term *strategic focus*.
63. To the extent that they are relevant, the guidelines do also suggest that the full costs of infrastructure, including increased demand on infrastructure outside the development and ongoing servicing costs, should be considered¹⁸.
64. It is evident that the requirement to be responsive has general application. It is *not* just relevant for proposals of significance and nor does it override the need for integration with infrastructure planning and funding, or the need to maintain a strategic perspective. Given that the timeframe for the proposed rezoning extends into the medium term (3-10 years) at least, the strategic component, and how the proposed development at Ōhoka fulfils strategic objectives, is plainly relevant.
65. This may be particularly so at the interface with infrastructure and funding. For example, the submitters' proposal to utilise what, it says, is available capacity in the Mandeville to Rangiora wastewater pipeline is likely to impact development that is already plan enabled for Mandeville. Whether such utilisation (or cannibalisation?) of otherwise allocated capacity should be considered as contributing to a well-functioning urban environment, or not, again seems questionable.
66. And scale may again be relevant, in terms of GC wide decisions on infrastructure planning and the strategic aspects revealed in the suite of strategic planning documents including the Waimakariri District Development Strategy 'our District, Our Future – Waimakariri 2048, and now including the Greater Christchurch Spatial Plan (**GCSP**)¹⁹.

Policies and implementation

67. The following NPS-UD policies appear the most relevant:

- 67.1. Policy 1 – Well functioning urban environments

Planning decisions contribute to well-functioning urban environments, which are which are urban environments that, as a minimum:

¹⁸ [Understanding and implementing responsive planning policies \(environment.govt.nz\)](https://environment.govt.nz) at page 5.

¹⁹ Evidence of Nick Boyes dated 13 June 2024, discussed at paragraphs 31 to 36.

- (a) have or enable a variety of homes that:
 - (i) meet the needs, in terms of type, price, and location, of different households; and
 - (ii) enable Māori to express their cultural traditions and norms; and
- (b) have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and
- (c) have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and
- (d) support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and
- (e) support reductions in greenhouse gas emissions; and
- (f) are resilient to the likely current and future effects of climate change.

The Board supports as correct the finding in the decision on PC31 that this policy wording²⁰:

...prescribes a minimum set of criteria which we consider must be met in a positive or at least a neutral way.

67.2. 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.

67.3. Policy 6

When making planning decisions that affect urban environments, decision makers have particular regard to the following matters:

- (a) the planned urban built form anticipated by those RMA planning documents that have given effect to this [NPS]
- (b) that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:
 - (i) may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities,

²⁰ RCP031 Independent Hearing Panel Decision Report, dated 27 October 2023 at [102].

and future generations, including by providing increased and varied housing densities and types; and

- (ii) are not, of themselves, an adverse effect
- (c) the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1)
- (d) any relevant contribution that will be made to meeting the requirements of this [NPS] to provide or realise development capacity
- (e) the likely current and future effects of climate change.

[underlining added]

67.4. Policy 8

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.

68. These policies are then implemented in Part 3 of the NPD-UD, however the Outline at 3.1 makes it clear that:

...nothing in this part limits the general obligation under the Act to give effect to [the] objectives and policies.

69. Subpart 1 relates to providing development capacity. This includes, at 3.2, the components for sufficient development capacity, which is clearly linked to Policy 2. It notes the expectation, at 3.2(b), that it must be *infrastructure ready*. What this means is detailed in 3.4(3). In the short term there needs to be adequate existing development infrastructure, while in the medium and long term its funding needs to be identified, respectively in a long-term plan, or infrastructure strategy. And 3.5(1) states that Local authorities must be satisfied that the additional infrastructure to service the development capacity is *likely to be available*.

70. While these requirements specifically apply to the local authorities, when it comes to the practical provision of infrastructure to a development (that is in addition to its viability), these should also be relevant considerations.

71. Subpart 2, at 3.8, relates to responsive planning. It provides:

3.8 Unanticipated or out of sequence developments

- (1) This clause applies to a plan change that provides significant development capacity that is not otherwise enabled in a plan or is not in sequence with planned land release.
 - (2) Every local authority must have particular regard to the development capacity provided by the plan change if that development capacity:
 - (a) would contribute to a well-functioning urban environment; and
 - (b) is well-connected along transport corridors; and
 - (c) meets the criteria set under subclause (3).
 - (3) Every regional council must include criteria in its regional policy statement for determining what plan changes will be treated, for the purpose of implementing Policy 8, as adding significantly to development capacity.
72. This provision, which was not provided in the preceding NPS-UDC, has been the catalyst for the proposed rezoning (or perhaps pre-cursor PC31) and the series of plan changes at Selwyn. It too has not yet been the subject of consideration by the Courts. Several aspects of the provision need to be considered.
73. The first is the absence of any current regional council criteria on what plan changes are to be treated as adding significant development capacity, which is a threshold requirement. This means, Commissioners have had to make that determination themselves and raises the question of the extent to which it is open to Commissioners to identify and apply their own criteria. Especially as, while the means to assess the sufficiency of capacity is described in the NPS, significant capacity is not. For example, despite the numbers involved, should development that displaces planned infrastructure provision, or requires significant works in order to provide necessary transport connections, still be considered significant?
74. The submitters discuss the relevant issues of the significance of the development capacity they say will be provided and whether, in their view, the proposed rezoning will contribute to a well-functioning urban environment. However, in the Board's view, insufficient attention has been given to the criteria in 3.8(2)(b), whether the development capacity is *well-connected* along transport corridors.

Importance of being well-connected

75. On its face, this criterion is of equal importance to the others, which must all be satisfied, though for criteria (c), it can only be satisfied by implication at this time. It is noted that the development capacity must be *well-*

connected, so arguably, being able to be accessed by local or collector roads may not suffice. The use of the present tense “is” also suggests that the connection(s) should already exist.

76. The physical standard of those access roads must be relevant given the expectation that the development capacity be well-connected along transport corridors. That use of the plural also suggests an expectation there will be more than one corridor, or perhaps multiple access options along the relevant corridor. The use of the term transport corridor indicates multi-modal transport options, rather than just access via a rural road network, particular one with that exhibits limitations, as detailed in the combined traffic evidence. These are all reasonable inferences given the purpose is to enable the consideration of both significant, and well - functioning urban developments.
77. The submitters’ approach is that any such limitations *can* be overcome, however the question here is how not being well-connected along existing transport corridors impacts the *requirement* to have particular regard to the ‘unanticipated’ development capacity?
78. The Board’s position is that while regard may still be had (as it always is) to the significance of development capacity promoted in a proposed rezoning, the requirement for ‘particular regard’, or any sense of priority, is diminished. Whether this will make a real difference in practice, many be arguable but if, in a comparative sense, other anticipated options suffice, the weighting.
79. It is also noted that that Guidelines, for what they are worth, do also emphasise that the issue of accessibility along Transport corridors is considered a central consideration, in addition to the question of whether the plan change contributes to a well-functioning urban environment:

The well-functioning urban environment and well connected along transport corridors criteria together signal the importance of considering the location of a proposed development in relation to other areas and amenities, relative accessibility and transport infrastructure and/or options, when assessing any unplanned or out-of-sequence development proposals.
80. As it relates to transport, including public transport, the guidelines suggest that the transport infrastructure may not exist when a plan change is proposed but there needs to be confidence the infrastructure will be *funded for delivery and maintenance* in the future. However, importantly, the wording in the NPS-UD objective 3 speaks of more than just viable public

transport options, it refers instead to *existing or planned public transport networks*.

81. It would seem inconsistent for a development proposal that needs to include access to public, and active, transport in order to be considered significant and contribute to a well-functioning urban environment, to be able to rely on less than a real likelihood of *planned* public transport services.
82. Further issues in relation to transport are canvassed in the evidence of Mr Metherell. He remains concerned regarding the impacts of the proposed development on the safety of local and wider transport network. He further considers that the site is not well located for the proposed scale of development, compared with other proposed growth areas at Waimakariri.

Does the proposed rezoning contribute to a well-functioning urban environment?

83. If the relevant urban environment is GC, what does well-functioning look like and how should a development contribute?
84. On its face the primary contribution that the proposed rezoning makes, to GC, or at Ōhoka, is the provision of additional dwellings. Though, despite a total figure being provided, how many dwellings over what time frame is not clear. The timeframe of 10 years, subject to market demand, has previously been mentioned, but the accuracy of that estimate is not established and, on the proposed rule changes for the proposed rezoning, would be unenforceable. Whether development with that level of uncertainty should be seen as significant is discussed further below.
85. This initial view of the potential contribution, is perhaps unfair, at least as far as the likely quality of the development may be concerned. As its further submission notes, a principal concern of Board is with the scale of the development and its likely impacts on Ōhoka and the surrounding area, not whether the submitters will do a good job. In the end, if development is to be consented it will have to be to accepted and acceptable standards.
86. But looking at the other (minimum) criteria in Policy 1, Mr Boyes considers each in his evidence²¹ and concludes that it has not been demonstrated that the proposed rezoning will result in a well-functioning environment. In addition, he considers that²² it is not clear that significant development

²¹ Evidence of Nick Boyes dated 13 June 2024 at paragraphs 81 – 92.

²² Ibid at paragraph 96.

capacity will be provided (due to the identified stormwater and transportation network issues); and the proposal is not sufficiently well connected along transport corridors.

Significant development capacity

87. If the question of significant capacity is strictly a numbers game, then the total number of dwellings the proposed rezoning says it will deliver can be considered significant.
88. However, there are further details that impact that assessment. For example, whether *significant* development capacity is being provided should include, similarly to *sufficient* development capacity, a consideration of whether the development can be considered *infrastructure ready*. Again, the submitters rely on the MfE guidelines, in relation to the view that provision for infrastructure funding need only be shown as being viable.
89. Viability must surely include both technical viability and practical viability (including financial viability). So even if the guidelines are correct, there needs to be the practical ability to achieve the development capacity. For the proposed rezoning the Board remains concerned by areas of uncertainty in this regard.
90. One relates to the interim connection for wastewater. Via that connection the submitters seek to rely on existing capacity in the wastewater pipe from Mandeville to Rangiora. It is not clear whether there has been confirmation of the availability of that capacity or any agreement that it be allocated to the proposed rezoning. In any event, it is understood to be intended to provide for plan enabled demand within the Mandeville/Ōhoka area?
91. If that capacity cannot be provided, or is less than that has been estimated, then presumably the only option will be to bring forward the provision of a separate wastewater pipe for the proposed rezoning. It is also unclear what that eventuality would mean in terms of timing for the development under the proposed rezoning.
92. Timing must be relevant to whether the development capacity is considered significant, especially where the development site is unanticipated. If there is likely to be a significant lag in the development, is there any imperative for “particular regard” to be had as a matter of urgency? The capacity would be potential rather than realisable which, in turn, will affect issues such as affordability?

93. The same issue with timing can be raised in terms of the planned staging, which is indicated with proceed from Mill Road. The timing and sizes of any stages are, however, unknown.
94. It may also be that given the untested nature of the groundwater levels across the entire site, there may be issues with whether the total number of dwellings can in fact be realised.
95. On these issues, the Board has reviewed the s.42A, report which conforms with its previous advice²³, the while the solutions proposed by the submitters might be technically viable, practical uncertainties still remain. They include potential consenting issues if the assumptions on groundwater are not confirmed in subsequent testing, both for potable water supply and stormwater mitigation measures, and that the wastewater solution still relies on agreement with the Council and the availability of interim capacity.
96. The s.42A report also highlights the concerns with the proposed stormwater solutions, concerns echoed in the evidence prepared for the Board by Mr Nick Keenan, of Stantec Ltd. Mr Keenan indicates²⁴ that while the viability of the approach to attenuation storage is feasible, without greater detail the feasibility of the stormwater management system overall, is difficult to assess.
97. Transport issues are another area of uncertainty given that the matters the submitters need to address (in accordance with Mr Metherell's evidence and the s.42A report) to realise their projected development capacity rely on the decisions of others, in particular the roading authorities. The priorities of those organisations may differ markedly from the submitters' needs. It will plainly be influenced by, as well as being part of, the strategic planning processes they have also been involved in for many years. That a decision on the proposed rezoning might (or might not) force the hand of such authorities should also be considered. If it did force their hand, then it might require the diversion of resources or affect the timing and/or priority of other planned works. But, if not, issues such as traffic safety, may not be adequately addressed. Mr Metherell expresses the view that, were the proposed rezoning to be approved there should be a restriction on subdivision until certain road upgrades are completed²⁵.

²³ The Board refers to the evidence of Shane Bishop, an infrastructure engineer at Stantec, who gave evidence for the Waimakariri District Council as submitter on PC31, which the Board adopted.

²⁴ Evidence of Nicholas John Keenan dated 13 June 2024 at paragraphs 17 and 32.

²⁵ Evidence of Andrew Metherell dated 13 June 2024 at paragraph 64.

98. A further issue in relation to whether the development capacity can be considered significant, is linked to the clear objective of the NPS-UD to impact housing affordability in the local or wider market. Mr Boyes notes in his evidence the limited number of additional housing typologies and the absence of any specified affordable housing²⁶.

Place of character

99. This section discusses the impact of Objective 4 and Policy 6. Again, these provisions are untested by the Courts. This is noted because there is an apparent tension between the approach of these provisions, in particular Policy 6, on the issue of amenity, and what is provided for in s.7(e) of the RMA.

100. The direction in s.7(e) is that:

In achieving the purpose of this Act, all persons exercising functions and powers under it, ...shall have particular regard to

...

(e) the maintenance and enhancement of amenity values:

...

101. That same standard is therefore required of decision makers under Policy 6 for 'changes' that detract from amenity values for some but increase amenity values for others. This formulation appears to require a re-balancing in making a judgement on amenity. However, it can be interpreted in a way that does not undermine s.7(e).
102. Section 7, unlike s.5 has been found to be, and applied as, more of an operative section in Part 2 of the RMA. It has also tended to be interpreted as meaning that amenity values should be maintained or enhanced. "Particular regard" is required by s.7(e), which is the same standard that Policy 6 sets for the proviso that change is not in itself an adverse effect. That direction is not an uncommon observation in RM decisions, but there also tends to be a point at which the degree and nature of change are such that the impact will be adverse.
103. Mr Knott is of the view²⁷ that the extent of the changes to the amenity that would be enjoyed by Ōhoka residents under the proposed rezoning is such that it goes beyond the level of change that the NPS-UD is seeking to

²⁶ Evidence of Nick Boyes dated 13 June 2024 at paragraphs 82 and 83.

²⁷ Evidence of Richard John Knott date 12 June 2024, at paragraph 28.

authorise. Such change might be expected to impact urban amenity values rather than cause significant changes to rural character.

104. Mr Goodfellow's view is that the level of change that will be occasioned by the proposed rezoning will have an adverse effect on the character of Ōhoka in the *moderate-high* range, and would mean that the present rural character of Ōhoka would no longer exist.
105. Both Mr Goodfellow and Mr Knott have clearly identified a baseline for testing whether the degree of change proposed by the proposed rezoning is adverse. They have concluded that it should be based on the protections relating to character that are included in the PWDP. Therefore, the concerns relating to an excessive *fear* of change do not detract from their conclusions. In other words, change, in itself, is not the concern, but rather the extent and the effect of the proposed changes on the character of Ōhoka and its surroundings.

Strategic incompatibility

106. Mr Boyes' evidence sets out the various planning documents that are relevant in considering the proposed rezoning²⁸. At a strategic level he focuses on the CRPS given the issue regarding the avoidance requirement in Objective 6.2.1(3) and, the GCSP the Waimakariri District Strategy 'Our District, Our Future'. However, it is evidence that there is a suite of strategic planning documents relating to GC that have been produced which include the Ōhoka area.

The Greater Christchurch Spatial plan

107. The WDC position on the strategic inappropriateness of enabling the level of intensification proposed for Ōhoka is effectively summarised in the GCSP that was adopted by all the partner councils in March 2024..
108. The GCSP indicates that it does not represent a significant departure from the strategies and plans that it builds on²⁹. Therefore, the underlying strategic focus that the GCSP outlines represent a distillation and reassertion of the direction of growth within GC.

²⁸ Evidence of Nick Boyes dated 13 June 2024 at paragraph 10.

²⁹ Including: Greater Christchurch Urban Development Strategy 2007, updated 2016; Greater Christchurch Transport Statement 2012; Land Use Recovery Plan 2013; Greater Christchurch Resilience Strategy 2016; Our Space 2018-2048, 2018; Greater Christchurch Public Transport Futures Business Case 2018; and, Mass Rapid Transit Interim Report 2021.

109. And, even putting the fact that Ōhoka is not identified as an area for intensive urban growth to one side, the GCSP notes, in a manner that is consistent with the NPS-UD, that in relation to the goal to “Focus and incentivise intensification of housing to areas that support the desired pattern of growth”³⁰ that the focus is to:

...encourage greater intensification and higher densities around centres and public transport routes [with] the benefits of intensification in line with this desired patter of growth includ[ing]:

- More people living in closer proximity to services and employment
- A competitive public transport system to encourage mode shift
- Less reliance on private vehicle use
- A reduction in greenhouse gas emissions
- Efficient and effective use of existing infrastructure
- More affordable and diverse housing choices
- Less need for urban expansion onto highly productive land

110. While the last of these benefits (re HPL) may appear less relevant given the proposed rural lifestyle zoning at Ōhoka, the relevance is brought back into focus in the discussion on the ongoing need for some greenfields development to be provided, which is the nature of the proposed rezoning at Ōhoka. The GCSP emphasises³¹ that such development still “must achieve and not undermine other directions and principles”, and notes that to achieve this:

...successful future greenfield development needs to:

1. Be well connected with employment, services and leisure through public and active transport networks
2. Be integrated with existing urban areas
3. Meet a need identified by the latest Housing and Business Development Capacity Assessment
4. Be at the right scale, density and location to minimise impact on highly productive land and existing permitted or consented primary production activities.

[underlining added]

³⁰ Greater Christchurch Spatial Plan 2024, at 4.3, page 64.

³¹ Greater Christchurch Spatial Plan 2024, at 4.4: Provide housing choice and affordability, Greenfield, page 66.

111. The Board’s view is that the proposal for Ōhoka represents the opposite of what the GCSP considers would constitute a “successful future greenfield development”.

The District Plan

112. Mr Boyes’ evidence also discusses relevant objectives and policies in the PWDP which touch on for development at Ōhoka³².
113. He considers that the proposal is inconsistent with or contrary to the Proposed Plan objectives and policies which discourage relatively remote and unconsolidated urban growth, and its associated poor accessibility, loss of productive farmland, and loss of small settlement character.

Development Contributions, Developer Agreements and potential burdens for ratepayers

114. While it is accepted that Development Contributions and Developer Agreements form the basis for how growth infrastructure is to be funded and therefore answers the funding viability question, these mechanisms will not necessarily ensure that the proposed rezoning will be cost neutral. Ōhoka would not be the first new town in recent Waimakariri history and while the context of Pegasus is different, the additional costs to the Council, and therefore to ratepayers over the years, means that Board says caution should be exercised in relation to the size of the development in Ōhoka.
115. The proposed rezoning will require changes to the Council’s planned infrastructure delivery strategy and long-term plan. Changes that may impact on planned growth also be considered elsewhere. While such changes aren’t the end of the world, they are changes imposed on the Council that could affect the public purse. The submitters referred in PC31 to the Planning Tribunal Decision in *Bletchley Developments Ltd v Palmerston North City Council*³³ which does indicate that delay of permissions for an improper purpose, such as securing funding agreements, is unlawful. However, the decision may equally reinforce that care needs to be taken prior to changes being made to plans that set further processes in motion in which the potential of costs to the community becomes almost inevitable.

³² Evidence of Nick Boyes dated 13 June 2024 at paragraphs 37 – 52.

³³ [1995] NZRMA 337

116. The submitters have indicated that the proposed rezoning will effectively be cost neutral for the Council, as they should be for a development of this nature.
117. However, and at the same time, the fact that the proposed rezoning sits well outside the strategic approach to infrastructure planning at Waimakariri means that, even with Development Contributions, Developer Agreements and Direct Funding, the changes in direction required by approving the proposed rezoning will, as noted above, mean a potential opportunity cost to development elsewhere in the district.
118. The situation in relation to public transport now includes an offer of a privately run service to Ōhoka over a period of time (as opposed to an on-demand bus service as proposed in PC31). Mr Metherell discusses issues raised by what is proposed in his evidence³⁴ which leads to a conclusion that the service need further consideration regarding its nature and feasibility. It is worth commenting that the provision of public transport isn't promoted under the NPS-UD as an end in itself. The clear intention is to provide a convenient option that might lead to mode change. The limited service proposed would appear unlikely to offer sufficient encouragement to lead to a reduction in private vehicle usage.
119. Utilizing capacity at the Rangiora wastewater plant and in the pipes currently used to transport waste there from Ōhoka and Mandeville may also have, excusing the pun, flow on effects. What is the position regarding capacity if the proposed rezoning utilises the existing 'extra' capacity that is understood to have been earmarked for already planned development?
120. That the above also relates to a dwelling limit prior to the Submitter needing to provide more in terms of infrastructure (though whether the purported capacity exists still needs to be confirmed) and traffic improvements also presents potential issues that will not necessarily be straightforward without more in the way of guarantees or other commitments in advance.
121. The Board accepts that these issues are not uncommon for plan changes seeking new developments but, in the case of Ōhoka, because this form of development has not been planned for, nor formed part of strategic calculations, the impacts of allowing this development could well go beyond those that would normally be expected. The distance from planned services and the resultant need for new services that, as well meaning as they wish to appear now, the submitters are unlikely to consider are their problem to

³⁴ Evidence of Andrew Metherell dated 13 June 2024 at paragraphs 40 – 47.

resolve, will inevitably introduce further costs that will fall on the Council and therefore the ratepayers of the wider district.

Conclusions

122. At the heart of Board's opposition is the premise that proposed rezoning is a proposal that goes beyond 'unanticipated development'. It is a development that is inconsistent with the strategic outcomes that the both the Council and the GCP have been working towards, and the strategies and plans that underpin strategic growth across this wider planning context. It also runs counter to the clear wishes of the community.
123. The responses in the submitters' evidence to issues raised, both in the PWDP process and the previous PC31 process, including public transport, transport safety, education, services and infrastructure, suggest a view that, as with site specific issues such as stormwater, water supply and wastewater, 'viable' solutions *may* be available.
124. The Board considers that there remain uncertainties underlying the practical viability of some of the proposed solutions, either in their availability, or their likelihood of success. Potential issues also exist in relation to traffic safety and accessibility, including in particular access to public transport.
125. The proposed rezoning *will* result in a fundamental change in the character of Ōhoka.
126. However, most importantly in terms of the NPS-UD, it remains unclear how proposed rezoning will contribute to a well-functioning urban environment, especially on the scale at which it has been pitched, as part of the urban environment of GC.
127. Whether it will provide significant development capacity remains an issue we will not know until all detailed investigations have been carried out, and the market has spoken. A development like the proposed rezoning seems destined to fuel rather than feed demand at Ōhoka. Insofar as the goals under the NPS-UD of creating competitive housing markets and more affordable housing are concerned, it is questionable whether the proposed rezoning will make a marked contribution to either.
128. Given the uncertainties that Board says remain. The NPS-UD should not be used to override the long-term strategic view for Ōhoka, and GC. That is not to say that some development consistent with the maintenance of rural character should not occur, and is provided for under the PWDP. But the

proposed rezoning goes far beyond that and will do little to contribute to a well-functioning urban environment.

Dated: 20 June 2024



Andrew Schulte
Counsel for the Oxford-Ōhoka Community Board
(further submitter #62)