

Before the Independent Commissioners appointed by the Waimakariri District Council

In the matter of the Resource Management Act 1991 (RMA)

and

In the matter of Proposed Waimakariri District Plan: Ōhoka Rezonings
(Hearing Stream 12D)

and

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

**Brief of evidence of Nick Boyes on behalf of the Oxford-Ōhoka Community Board
(as Further Submitter) - Planning**

Dated: 13 June 2024

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Evidence of Nick Boyes:

Introduction

1. My name is Nicholas (Nick) Boyes. I am an independent planning consultant and work in my own company Core Planning and Property Ltd. I hold a Bachelor of Science (majoring in Plant and Microbial Science and Geography) from the University of Canterbury (1997) and a Master of Science (Resource Management) (Hons.) from Lincoln University (1999). I have worked in the field of planning/resource management since 1999, the last 23 years as a planning consultant.
2. My experience includes district plan development, including the preparation of plan provisions and accompanying section 32 evaluation reports, and preparing and presenting s42A reports and evidence at both Council Hearings and the Environment Court. I am currently preparing the Rural, Natural Features and Landscapes and Natural Character Chapters as part of the Mackenzie District Plan Review. I also have experience undertaking policy analysis and preparing submissions for clients on various RMA documents, and preparing and processing resource consent applications and notices of requirement for territorial authorities. Relevant to the consideration of these Ōhoka Rezonings, I processed and reported on Plan Change 69 to the Operative Selwyn District Plan to rezone approximately 190 hectares of rural land at Lincoln for residential purposes. That development enabled approximately 2000 residential sites and a small commercial zone.
3. I was previously asked by Waimakariri District Council (WDC) to provide planning advice and evidence in support of their submission opposing Plan Change 31 to the Operative District Plan (PC31). I initially provided written comments in July 2022 which informed the Council's submission and later prepared and presented evidence on their behalf at the hearing held in August 2023.

Code of conduct

4. Although this is a Council Hearing, in preparing my evidence I have reviewed and agree to comply with the Code of Conduct for Expert Witnesses contained in Part 9 of the Environment Court Practice Note 2023. This evidence has been prepared in compliance with the Practice note and I agree to comply with it when I give any oral evidence. I confirm that the issues addressed in this statement of evidence are within my area of expertise, except where relying on the opinion or

evidence of other witnesses, which I will specify. I have not omitted to consider any material facts known to me that might alter or detract from the opinions expressed.

Scope of evidence

5. I have been engaged by the Oxford Ōhoka Community Board to prepare this statement of evidence in relation to the submissions by Rolleston Industrial Developments Ltd (RIDL) [160.1], [160.2] and Carter Group Ltd (Carter Group) [237.1] seeking rezoning in and adjacent to Ōhoka. It also matters relevant to the Council's consideration of the Variation 1 submission of RIDL [60.1] seeking to apply the Medium Density Residential Zone (MRZ) to the subject site (adjacent to Ōhoka).
6. The RIDL submission [160.2] also seeks to rezone the existing area of Ōhoka (zoned SETZ) to GRZ. However, in his evidence on the submissions above, Mr Walsh (at paragraph 72) states that this matter is no longer being pursued. Subsequently no evidence was provided in support of this submission point. On that basis I do not specifically address this submission in detail, but note that I agree with the assessment and opinions expressed by Mr Willis in his section 42A report.
7. In preparing my evidence I have reviewed the evidence of the submitter, namely the planning evidence of Mr Jeremy Phillips and Mr Tim Walsh along with technical evidence of Mr Nicholas Fuller (transport), Mr Simon Milner (public transport), Mr Garth Falconer (urban design), Ms Nicole Lauenstein (urban design), Mr David Compton-Moen (landscape) and Mr Tony Milne (landscape). I have also reviewed the section 42A report prepared by Mr Andrew Willis (including the attachments from Mr Yeoman (economics), Mr Binder (transport) Mr Nicholson (urban design), the report by BECA (greenhouse gas emissions) and the Memo on housing uptake and capacity prepared by Peter Wilson (WDC). I have also reviewed the decision of the IHP on PC31 and the PC31 Joint Witness Statement (JWS) in relation to development constraints dated 17 August 2023 (in which I participated).
8. I have also reviewed and rely on the evidence prepared in support of the further submission by the Oxford Ōhoka Community Board:
 - Mr Richard Knott (Urban Design)
 - Mr Kim Goodfellow (Landscape)
 - Mr Andrew Metherell (Transport)

- Mr Nick Keenan (Stormwater Servicing)
9. I visited the site and the wider Ōhoka/Mandeville area in July 2023 prior to preparing my evidence in relation to PC31.
 10. In my evidence I focus on the identification, relevance and assessment of the key statutory planning documents; namely the National Policy Statement for Urban Development 2020 (NPS-UD), the Canterbury Regional Policy Statement (CRPS), Greater Christchurch Spatial Plan (GCSP), the Waimakariri District Development Strategy (DDS), and the Proposed Waimakariri District Plan (PDP). This evidence does not provide a comprehensive planning assessment of every policy applicable to the relief sought by RIDL and Carter Group, but instead focusses on what I consider to be the key planning issues and provisions as they relate to the consideration of the proposed re-zoning.
 11. I have reviewed the JWS titled “Urban Environment (Planning) Day 1” dated 26 March 2024. Unfortunately, I was unable to attend the planner conferencing due to other commitments. In my view what constitutes an “urban environment” under the National Policy Statement on Urban Development (NPS-UD) is a key determinant of the planning context in which these submissions seeking rezoning of the subject land should be considered.
 12. As set out in the JWS, there were competing interpretations of the what constitutes the “urban environment” under the NPS-UD amongst the planners. I agree with Mr Willis (at paragraph 43) that this suggests the interpretation and application of the NPS-UD in this regard is not entirely clear, or at least universally accepted by planners.

Summary of evidence

13. The subject site is not identified as a Greenfield Priority Area (GPA) for residential development, Future Urban Development Area (FUDA), nor is it within the projected infrastructure boundary shown on Map A within Chapter 6 of the CRPS. Meaning that the proposal does not accord with the prescriptive growth framework for urban growth set out in **Objective 6.2.1(3)**, **Objective 6.2.2**, **Objective 6.2.6** and **Policy 6.3.1(4)** of the CRPS.
14. On that basis, the proposed rezoning relies squarely on the provisions contained in the NPS-UD in order to be approved. I agree with the evidence of Mr Walsh, that the application of the NPS-UD is of critical importance to the success [or otherwise] of the rezoning. I also agree

with Mr Walsh's assertion that if the NPS-UD is found not to apply, or the proposed rezoning request is found to be inconsistent with it, there are strong grounds for refusal¹.

15. Whether the NPS-UD applies to this site depends on whether Ōhoka is considered part of an 'Urban Environment' as described therein. If not, the NPS-UD is not a relevant matter to consider. In that case the proposed rezoning should be refused as it is not otherwise supported by either the CRPS, the GCSP, DDS or the PDP.
16. In any case, even if the even if the 'door is opened' via NPS-UD **Policy 8**, the rezoning request still needs to be considered on its merits². **Policy 8** provides an opportunity to allow consideration of an 'out of sequence' or 'unanticipated' development proposal that that might otherwise be precluded by the Chapter 6 of the CRPS. However, this opportunity is predicated on development meeting the significant capacity threshold (**Objective 6(c), Policy 8** and **Clause 3.8**); contributing to a well-functioning urban environment (**Objective 1, Policy 1** and **Clause 3.11**); including improving housing affordability by supporting competitive land and development markets (**Objective 2** and **Policy 1 (a)(i)**), being able to be adequately and efficiently serviced by infrastructure (**Objective 6(a), Policy 10** and **Clause 3.5**); and being well connected along transport routes (**Policy 1** and **Clause 3.8**).
17. Relying on the evidence of others, I am of the view that the proposed rezoning does not meet those NPS-UD thresholds, particularly in relation to being described as contributing to a "*well-functioning urban environment*" (**Policy 1**). On that basis I consider that the proposed rezoning does not represent the type of development promoted by the NPS-UD and therefore cannot rely on the unanticipated or out of sequence development opportunities provided for within (**Policy 8**).
18. In the absence of the ability to rely on the responsive planning approach set out in the NPS-UD, my assessment of the CRPS, GCSP, DDS and PDP is such that the proposed rezoning should be refused.

Canterbury Regional Policy Statement (CRPS)

19. The Proposed Plan (and therefore this proposed rezoning request) is required under section 73(4) of the RMA to give effect to the CRPS.

¹ Evidence of Mr Tim Walsh, paragraph 331.

² PC31 IHP Decision, paragraph 40.

20. This evidence is restricted to consideration of Chapter 6 – Recovery and Rebuild of Greater Christchurch. Within Greater Christchurch, the CRPS’s Chapter 6 provisions are directive around where urban growth and urban activities are to be located, generally limiting these to existing urban areas, greenfield priority areas and FUDAs.
21. A change to Chapter 6 of the CRPS amended Map A to identify Future Urban Development Areas (FUDAs) in order to support the outcomes expressed in Our Space 2018-2048. Our Space identified sufficient development capacity to meet anticipated housing needs over a thirty year planning horizon out to 2048, including identification of new FUDAs in Rolleston, Rangiora and Kaiapoi. This was undertaken to provide sufficient development capacity to meet expected demand for housing and business land in accordance with NPS-UD requirements (which took effect on 20 August 2020). The Proposed Change was approved by the Minister for the Environment on 28 May 2021 and the changes became operative on 28 July 2021.
22. Mr Walsh acknowledges that the CRPS, Our Space, GCSP, DDS and the Proposed Plan do not identify Ōhoka as an area for urban growth³. I agree, and note that the site proposed to be rezoned is not identified as a Greenfield Priority Area (GPA) for residential development, nor is it within the projected infrastructure boundary shown on Map A within Chapter 6 of the CRPS, meaning that it does not give effect to: **Objective 6.2.1(3)** which *“avoids urban development outside of existing urban areas or greenfield priority areas for development”*; **Objective 6.2.2** which seeks *“consolidation and intensification of urban areas, and avoids unplanned expansion of urban areas”*; **Objective 6.2.6** to *“identify and provide for Greater Christchurch’s land requirements for the recovery and growth of business activities in a manner that supports the settlement pattern brought about by Objective 6.2.2”*; and **Policy 6.3.1(4)** to *“ensure new urban activities only occur within existing urban areas or identified greenfield priority areas as shown on Map A, unless otherwise expressly provided for in the CRPS”*.
23. **Objective 6.2.1** is also broader than simply specifying the locations for future urban growth. It also seeks that recovery, rebuilding and development are enabled within Greater Christchurch through a land use and infrastructure framework that:

³ Evidence of Mr Tim Walsh, paragraph 257.

5. *protects and enhances indigenous biodiversity and public space;*
 6. *maintains or improves the quantity and quality of water in groundwater aquifers and surface waterbodies, and quality of ambient air;*
 9. *integrates strategic and other infrastructure and services with land use development*
 11. *optimises use of existing infrastructure; and...*
24. The site of the proposed rezoning adjacent to such a comparatively small existing 'urban environment' means that it is difficult to integrate strategic and other infrastructure and services.
25. **Policy 6.3.3** provides direction in relation to Outline Development Plans (ODP). Whilst this strictly applies only to GPA, I consider the direction therein is still relevant. It states that Outline Development Plans include (as relevant) land required for community facilities or schools ((3)(b); demonstrate how effective provision is made for a range of transport options including public transport options and integration between transport modes, including pedestrian, cycling, public transport, freight, and private motor vehicles (8); and show how other potential adverse effects on and/or from nearby existing or designated strategic infrastructure (including requirements for designations, or planned infrastructure) will be avoided, remedied or appropriately mitigated (9).
26. **Objective 6.2.4** seeks to prioritise the planning of transport infrastructure so that it maximises integration with identified priority areas and "new settlement patterns" and facilitates the movement of people and goods and provisions of services in Greater Christchurch, while achieving a number of outcomes. These include reducing dependence on private motor vehicles, reducing emissions and promoting the use of active and public transport nodes. My understanding of this objective, and the related policy direction is that it is aimed towards planning of transport infrastructure.
27. **Policies 6.3.4** 'Transport Effectiveness' and **6.3.5** 'Integration of land use and infrastructure' seek to ensure an efficient and effective transport network across Greater Christchurch. **Policy 6.3.4(2)** states: "*providing patterns of development that optimise use of existing network capacity and ensuring that, where possible, new building projects support increased uptake of active and public transport and provide opportunities for modal choice*".

28. Relying on the evidence of Mr Binder for the Council and that of Mr Metherell, I consider the rezoning of a relatively remote site away from key employment centres will increase reliance on private vehicles for transport and that this will increase contaminant emissions and energy use, have adverse network effects, including congestion, and require various network upgrades, including those currently unplanned. The site location is such that it will not support an increased uptake of active and public transport or modal choice. Therefore, I am of the view that the submissions do not give effect to **Objectives 6.2.1(9) and (11), Objective 6.2.4 and Policies 6.3.4 and 6.3.5.**
29. I agree with Mr Willis that **Policy 6.3.12** Future Development Areas, whilst strictly not directly relevant, contains relevant guidance for what the CRPS expects to occur in future residential developments. I share the concerns set out in paragraph 289 of the section 42A report that the proposed rezoning does not promote the efficient use of land as it does not provide opportunities for higher density living, including mixed-use developments and housing choices for a range of dwelling types and as such does not give effect to **Policy 6.3.12.**
30. Overall, I consider that the CRPS policy framework directs growth of the scale proposed by the submitters towards a Key Activity Centre (KAC), where such infrastructure is already in place can be more effectively and efficiently extended to provide for future urban growth. The creation of a “more significant node” at Ōhoka does not appear to fit with communities’ expectations as articulated in the above policy framework.

The Greater Christchurch Spatial Plan (GCSP)

31. In 2022, the Greater Christchurch Partnership and the Crown established an Urban Growth Partnership for Greater Christchurch, which developed the GCSP. The GCSP is the ‘Future Development Strategy’ (FDS) for Greater Christchurch as set out in Subpart 4 of the NPS-UD. Greater Christchurch includes that part of the Waimakariri District taking in the subject site.
32. Map 2 on page 23 of the GCSP sets out the areas for future urban growth. This does not include Ōhoka or the surrounding area.
33. In that context it is my view the rezoning and subsequent development proposed by the submitters are inconsistent with the growth directions specified in the GCSP. This is acknowledged by Mr Walsh, who similarly

concludes that the proposal does not align with the GCSP as the site is not identified as a location for future growth⁴.

Waimakariri District Development Strategy 'Our District, Our Future – Waimakariri 2048' (DDS)

34. The DDS was produced in 2018 and acknowledges the Waimakariri District is one of the fastest growing in New Zealand. It provides for urban growth around the main towns of Rangiora, Kaiapoi, Woodend/Pegasus (including Ravenswood) and Oxford. The DDS intends that for Ōhoka, only existing vacant areas are to develop and some further expansion opportunities, where generally consistent with historic growth rates, i.e., it does not signal the scale of residential development proposed by the submitters.
35. The anticipated outcomes from the DDS have been incorporated within the zonings, objectives and policies of the Proposed Waimakariri District Plan (PDP). These focussed new greenfield intensification development in the District's larger towns, enabling the character of the District's small settlements to be retained⁵.
36. I note that Mr Walsh also concludes that the proposal does not align with the DDS as the site is not identified as a location for future growth⁶. I consider that the rezoning proposed in the RIDL and Carter Group submissions is inconsistent with the growth directions and character aspirations specified in the DDS for Ōhoka, which informed the approach to urban growth and zonings included in the Proposed Waimakariri District Plan.

Proposed District Plan (PDP)

37. Building on from the work that was undertaken as part of the DDS, the Waimakariri District Council identified New Development Areas as part of the Proposed District Plan. These are located on the outskirts of Rangiora and Kaiapoi with the assumption that they will accommodate between 5,000 and 7,000 new dwellings to provide sufficient development capacity to accommodate predicted housing growth in the district.
38. This proposal seeks to rezone additional land for residential purposes, including a series of changes to the provisions as notified in order to

⁴ Evidence of Mr Tim Walsh, paragraphs 81 and 371.

⁵ DDS, Section 2.5, page 20.

⁶ Evidence of Mr Tim Walsh, paragraphs 81 and 375.

accommodate the scale and nature of the rezoning. These changes are considered in detail in the evidence of Mr Walsh and the section 42A report prepared by Mr Willis. I do not assess the merits of those changes, but rather focus on the broader assessment as to whether the proposed rezoning of the subject site from Rural Lifestyle Zone (RLZ) to predominantly a Settlement Zone (SETZ) is the most efficient and effective way to give effect to the higher order documents and achieve the purpose of the RMA, as directed under section 32(3).

39. The key objectives are considered to be **SD-O2, SD-O4, UFD-P2, TRAN-O1, SUB-O1, RESZ-O1** and **SETZ-O1**.
40. **SD-O2** relates to Urban Development. Mr Knott and Mr Goodfellow disagree with the assertion that the rezoning represents a consolidation of and integration with an existing urban environment, nor that it recognises existing character and amenity values. Mr Knott reaches the view that the proposed rezoning will “in no way” reflect the low density living environment anticipated under the PDP⁷.
41. Mr Knott also disagrees with the evidence of Mr Compton-Moen that rezoning the site is a natural extension to Ōhoka; as well as that of Mr Falconer where he describes the rezoning as “augmenting” the existing historic Ōhoka settlement. To the contrary, Mr Knott notes the 7-fold increase in the size of Ōhoka will effectively create a new town within a rural environment, of which the existing settlement becomes just a small part.
42. The evidence of Mr Goodfellow considers that the current assessment on the rural character of the scale of growth remains focussed on boundary treatments and visual screening as opposed to the overall impact on the character of the surrounding rural locality⁸. It is acknowledged that both the ODP and PDP provide for the development of the site into 36 x 4 hectare allotments. The evidence of Mr Milne for the submitters suggests that this means that the “*current open rural views that are experienced across the site cannot be anticipated to remain*”. I agree with the evidence of Mr Knott and Mr Goodfellow that such development is in no way comparable or justifies the urban development of 850 to 900 residential allotments provided under the rezoning. The scale of resulting built form will not maintain a rural character setting for those residents to the north of the site.

⁷ Evidence of Mr Richard Knott, paragraph 57.

⁸ Evidence of Mr Kim Goodfellow, paragraph 15.

43. Based on the evidence of Mr Knott and Mr Goodfellow, it does not appear that the development proposed is well integrated into the existing rural setting, or maintains or enhances the form, function and amenity values of the existing Ōhoka Settlement. It is difficult to reconcile how a development that takes the population from less than 300 to approximately 2,485 persons can integrate with rather than dominate the existing Ōhoka village.
44. The currently rural land will not be managed to ensure that it remains available for productive rural activities, to that extent the proposed rezoning does not accord with the outcomes sought in **SD-O4**.
45. **UFD-P2** 'Identification/location of new Residential Development Areas' controls where new residential development areas locate. Like Mr Willis, I also disagree with Mr Walsh's view that the proposal concentrates or attaches to an existing urban environment to promote a coordinated pattern of development under **UFD-P2(a)**.
46. The proposed rezoning takes the existing rural settlement of Ōhoka and extends it southwest towards Mandeville. The majority of land between the southern extent of the subject site and the Mandeville residential zoned land is already developed to a density of 1 to 2ha allotments. This will create a scenario whereby the two will effectively appear as one with little in the way of open rural character to differentiate between the communities or represent a co-ordinated pattern of development.
47. I note that Mr Nicholson describes this proposed development pattern as a 'Peninsula' of urban land, being not well connected to the existing Ōhoka village⁹. In his view a consolidated site would have higher proportions of the boundary of the site adjoining the existing Ōhoka settlement¹⁰.
48. The applicable transport evidence suggests some tension with **TRAN-O1**. Mr Metherell identifies that the proposal will contribute to traffic issues that will require a number of road and intersection upgrades. Given the location of Ōhoka relative to key urban centres in the District and Christchurch City, the proposal is most unlikely to reduce dependency on private motor vehicles.
49. **SUB-O1(2)** requires subdivision to achieve an integrated pattern of land use and urban form that consolidates urban development and maintains

⁹ Evidence of Mr Nicholson, paragraph 6.15.

¹⁰ Evidence of Mr Nicholson, paragraph 6.14.

rural character except where required, and identified by the District Council, for urban development. The subject site is not identified for urban development in any higher order document or the Proposed District Plan. Given the evidence of Mr Goodfellow, I do not consider that the rezoning consolidates urban development or maintains rural character¹¹.

50. The proposal is contrary to **RESZ-O1** in that it does not provide more housing "*in appropriate locations*". None of the strategic planning documents have identified the site as appropriate for urban growth and the evidence suggests that the location is not appropriate for urban development of this scale.
51. **SETZ-O1** requires that existing settlements are recognised and retain their existing character, while providing for a mixture of commercial and residential use on larger sites. As outlined above, the evidence of Mr Knott and Mr Goodfellow raises concerns regarding the retention of the existing character of Ōhoka given the scale of change proposed by these rezonings. Mr Goodfellow describes the situation in which the rezoning will mean that the present character of Ōhoka village will no longer exist and will be replaced with a suburb of housing density that is normally found in urban centres such as Christchurch or Rangiora¹².
52. Based on the above assessment I consider 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.

Summary of Regional and District Planning Documents

53. The Canterbury Regional Policy Statement and other planning documents guiding future development assessed above provide policy support for the development sought by the proposed rezoning. This indicates that the rezoning proposal is unanticipated and not supported by the relevant RMA planning documents.

Relevance of the NPS-UD

54. In the context of the above findings, in my view the only pathway for the rezonings to be successful is via the NPS-UD. As the higher order

¹¹ Evidence of Mr Kim Goodfellow, paragraph 9.

¹² Evidence of Mr Kim Goodfellow, paragraph 24.

document, the planning instruments assessed above must give effect to the NPS-UD¹³. In that way the “responsive” approach embedded in the NPD-UD (**Objective 4**) can potentially over-ride the directive policy approach included in Chapter 6 of the CRPS.

55. The first matter to determine is whether the subject site is within an ‘Urban Environment’. The NPS-UD only applies to ‘urban’ environments.
56. The NPS-UD defines an ‘urban environment’ as being an area of land that is, or is intended to be, predominantly urban in character; and is, or is intended to be, part of a housing and labour market of at least 10,000 people (regardless of size, and irrespective of local authority or statistical boundaries).
57. The current population of Ōhoka is understood to be less than 300 people. The total future population of Ōhoka following full implementation of the proposed rezonings is estimated to be some 2,400 people, remaining significantly less than the 10,000 people referred to in the NPS-UD definition. It is clear that any description of Ōhoka as part of an ‘urban environment’ requires consideration at a larger scale than the immediate area.
58. The IHP that heard PC31 noted that what is the “urban environment”, or “urban environments” is contextual and is not able to be determined in a vacuum¹⁴. It will depend on what is being considered and whether it is at a regional, subregional, or district scale. The PC31 IHP concluded that Ōhoka township is not in and of itself, nor is it intended to be (as provided for in both the Operative and Proposed District Plans), predominantly urban¹⁵. I agree with that assessment.
59. I consider that Greater Christchurch functions as an interconnected housing and employment market; and on that basis it would be appropriate to consider this as the starting point when assessing the regional scale urban environment. It is noted that was the position I adopted when reporting on PC69 at Lincoln on behalf of the Selwyn District Council. For the purposes of the NPS-UD **Policy 8** I consider that Ōhoka is part of the Greater Christchurch Urban Environment and associated housing and labour market of more than 10,000 people.

¹³ Section 75(3)(a) of the Resource Management Act 1991 (RMA).

¹⁴ PC31 IHP Decision, paragraph 50.

¹⁵ PC31 IHP Decision, paragraph 52.

60. Notwithstanding, the scale of the proposed rezonings dominate the existing Ōhoka village. The existing urban area of Ōhoka shown on Map A in the CRPS is only some 14ha in area. The submitters seek to rezone an additional area of 156ha to create a minimum of 850 new households.
61. By contrast, I note that the other recent plan changes considered within Greater Christchurch seeking to rely on **Objective 6(c)** and **Policy 8** the NPS-UD did not dominate the existing urban environment to anywhere near the same extent. For example, PC67 at West Melton enabled 131 residential sites on an area of some 33ha, adjoining an existing urban area of approximately 225ha.
62. This difference in nature of receiving environment and scale of development relative to the receiving 'urban' environment does open the question as to whether the NPS-UD can be relied upon. I understand that Mr Schulte will address this matter further in legal submissions.
63. Regardless, how the proposed rezonings integrate with the existing urban environment will impact on the ability to meet the other requirements set out in the NPS-UD (namely whether it contributes to a well-functioning urban environment in terms of **Objective 1** and **Policy 1** therein).

NPS-UD Assessment

64. **Objective 6** of the NPS-UD seeks that local authority decisions on urban development that affect urban environments are integrated with infrastructure planning and funding decisions; strategic over the medium term and long term; and are responsive, particularly in relation to proposals that would supply significant development capacity. This Objective is implemented by:
- **Policy 2**, which requires that "at least" sufficient development capacity is provided within the district to meet the expected demand for housing, in the short, medium and long terms.
 - **Policy 6**, which guides decision-makers to have particular regard to (amongst others) "*any relevant contribution that will be made to meeting the requirements of this National Policy Statement to provide or realise development capacity*".
 - **Policy 8**, which states that "*local authority decisions affecting urban environments are responsive to plan changes that would add significantly to development capacity and contribute to well-*

functioning urban environments, even if the development capacity is:

- a) unanticipated by RMA planning documents; or*
- b) out-of-sequence with planned land release”.*

65. Guidance in terms of the application of **Policy 8** is found within the NPS-UD itself. Subpart 2 – Responsive Planning, Clause 3.8 ‘Unanticipated or out of sequence developments’ sets out that:

- (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); and**
- (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.*

66. In terms of (3) above, it is noted that no such criteria have yet been included in the CRPS. In my view this does not mean that the Policy cannot be met. In my view, if there are no criteria, it is only the first two matters in **Policy 8(2)** therein that are relevant.

67. The NPS-UD defines development capacity as follows:

means the capacity of land to be developed for housing or for business use, based on:

- a) the zoning, objectives, policies, rules, and overlays that apply in the relevant proposed and operative RMA planning documents; and*
- b) the provision of adequate development infrastructure to support the development of land for housing or business use*

68. The definition of development infrastructure includes water, wastewater and stormwater as well as land transport infrastructure. Therefore, if a proposal cannot be adequately serviced by the necessary infrastructure it cannot be said to contribute to development capacity.

69. **Policy 8** of the NPS UD sets out two tests for unanticipated or out-of-sequence development and both tests must be achieved before the NPS-UD allows for a private plan change to be successfully considered, i.e., it must both:

- a) add significantly to development capacity; and*

b) *contribute to well-functioning urban environments.*

Development Capacity

70. **Policy 2** requires 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.
71. Relying on the definition included within the NPS-UD, I agree with Mr Willis that where there is uncertainty that development can be appropriately serviced, then it cannot be said to add to development capacity¹⁶.
72. Much of the evidence of Mr Walsh relies on there being a development capacity shortfall within the urban environment (particularly outside the main towns), meaning there is not enough land available to provide for expected housing demand. Mr Walsh's evidence provides considerable analysis and assessment to why the New Development Areas (NDAs) identified in the Proposed District Plan will not deliver the 5,000 to 7,000 households predicted. Mr Walsh considers that 1,800 to 2,600 fewer dwellings will be realised than anticipated¹⁷. Mr Walsh is of the view that that Council is not currently meeting its obligations under the NPS-UD (**Policy 2**)¹⁸.
73. I am not aware of the Council growth projects relied upon or the methodology for identifying the NDA included in the Proposed District Plan. Notwithstanding, should Mr Walsh's observations regarding a potential shortfall be correct. In my view that does not assist the potential success of the proposed rezonings to the extent being suggested. All that means is that the Council would have to re-assess the NDA and potentially consider identifying further land in order to meet its obligations under **Policy 2** of the NPS-UD.
74. This identification process will be in accord with the various statutory obligations set out in sections 74 and 75 and the First Schedule of the RMA, including the evaluation required under section 32. This assessment is wider than the consideration of any particular site, and certainly does not obligate the Council to approve the submitters

¹⁶ Section 42A Report, paragraph 266.

¹⁷ Evidence of Mr Tim Walsh, paragraph 91.

¹⁸ Evidence of Mr Tim Walsh, paragraph 15.

requested rezonings regardless of the other considerations set out in the balance of the NPS-UD.

75. The inference that any such shortfall requires the Council to rely on **Policy 8**, to favourably consider any new unanticipated development proposal is in my view overstated. This is particularly so in the context of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act, which amends the NPS-UD, and came into force on 20 December 2021. This legislation requires tier 1 councils (including Christchurch, Waimakariri and Selwyn) to change their district plans to expressly include specified medium density residential standards (MDRS), which include bulk and location, site coverage, open space and height rules, in relevant residential zones. In my view it is not unreasonable to assume that the MDRS will lead to greater levels of housing intensification within existing zoned areas.
76. Section 32(2) requires an assessment of the risk of acting or not acting if there is any uncertain or insufficient information about the subject matter of the provisions. Mr Walsh considers that any development capacity shortfall carries some risk associated with not acting (refusing the proposal). This is on the basis that rezoning provides an opportunity to deliver capacity in a suitable location, where there may not be many suitable alternatives. Mr Walsh goes on to state that if the proposed rezoning was refused, the current opportunity to expand Ōhoka may be lost with fragmentation through rural lifestyle subdivision¹⁹. I note that this finding differs from the section 32 undertaken by the Council prior to notification of the Proposed District Plan. My assessment of the Memo prepared by Mr Wilson attached to the section 42A Report is such that the risk of any development capacity shortfall arising in the short to medium term is low. In any case, in my view there appears to be sufficient time available to undertake a strategic assessment of all potential development options rather than take the much greater risk of acting (i.e., accepting this proposal).
77. I understand that the resulting 850 to 900 households arising from the proposed rezoning represent around 3.4% of the existing dwellings in the District. The land area sought to be rezoned is at least comparable to some of the FUDA identified on Map A in Chapter 6 of the CRPS. In the absence of any specific guidance on what constitutes “significant”,

¹⁹ Evidence of Mr Tim Walsh, paragraph 309.

in my view this scale of development represents significant development capacity.

78. In terms of servicing, I note the comments made in the section 42A report that it is not clear whether stormwater can be adequately provided. Mr Keenan agrees and supports the concerns set out in the evidence of Mr Roxburgh (at paragraphs 38-40)²⁰. They both note in their evidence that there appear to be viable servicing options, but that will require further investigations and/or further consents might be required.
79. The situation regarding transportation is similar. Mr Metherell considers that further modelling and transport network changes (intersection upgrades) beyond the site are required to service the level of development proposed. Mr Metherell considers it unrealistic at this stage to expect these upgrades will be funded by Council with contribution from development contributions in a way that aligns with development timing. In his view the major intersection upgrades required are also likely to involve third party land which adds further complications to the delivery of necessary improvements²¹.
80. To the extent there remains a degree of uncertainty around the ability to deliver servicing outcomes (namely stormwater and transport infrastructure), the proposed rezoning cannot be said to give effect to **Objective 6** and **Policy 8** of the NPS-UD.

Well-functioning urban environment

81. **Policy 1** of the NPS-UD sets out what constitutes a well-functioning urban environment, and requires that planning decisions contribute to such environments. A well-functioning urban environment must meet all of the criteria in the policy, which includes that they:
- (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*

²⁰ Evidence of Mr Nick Keenan, paragraph 24.

²¹ Evidence of Mr Andrew Metherell, paragraph 21.

- (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.*

82. In terms of Clause (a), the proposed development contains two residential zones (LLRZ and SETZ). These are the same zones proposed for the existing Ōhoka village settlement and as such provide little variation in the way of housing typology.
83. **Objective 2** of the NPS-UD requires planning decisions improve housing affordability by supporting competitive land and development markets. There appears to be no specific provision for affordable housing, excepting through providing an increased housing supply in an area where there is demand for standalone housing which might have some downward pressure on price.
84. No areas are identified for medium density housing in the rezoning proposal. Whilst it is acknowledged that there is no requirement for a development to provide for a full range of housing types, in my view this raises the question as to whether there are other more suitable potential locations for urban growth that can provide for the needs of different households in terms of type, price and location.
85. In terms of (b), the proposal includes a Local Centre Zone (LCZ) to provide for the convenience needs of the future residents.
86. In terms of (c), it is noted that unlike PC31, this rezoning proposal includes a privately funded 10-year bus proposal. Mr Binder considers that this would not be well patronised²². Based on the advice set out by Mr Binder and the evidence of Mr Metherell, I do not consider that the proposal has good accessibility for all people between housing, jobs and community services, including by way of public or active transport. Therefore, in my view the submitters have not demonstrated that the proposal meets clause (c).

²² Evidence of Mr Shane Binder, paragraph 7.

87. In terms of Clause (d), any proposal to add supply contributes to a competitive land and development market (on the basis that not all sites are owned by the same entity). This proposal is no different in this regard.
88. In terms of (e), I agree with the findings set out in the decision of the PC31 IHP that the comparison between the loss of dairying from the site compared to increased GHG emissions from the construction and occupation of the plan change site is not particularly helpful²³. In the context of the RMA decision-making I consider the matter is more about the comparative analysis of various growth options and favouring those that are more efficient and effective at supporting reductions in greenhouse gas emissions. For example, transport emissions is one of the key reasons for locating new development where public transport infrastructure already exists (or is planned), and locating development closer to employment opportunities. The report prepared by BECA attached to the section 42A Report shows that the proposal will not support a reduction in greenhouse gas emissions.
89. Given the reliance on commuter travel for employment purposes, most likely being within Christchurch City and the subsequent findings of the BECA report and the assessment of Mr Binder and Mr Metherell; I do not consider that the proposed rezoning give effect to Clause (e) and that aspect as it relates to **Objective 8**.
90. In terms of (f), I am not aware of any particular concerns in terms of the resilience of the rezoning site to cope with the future effects arising from climate change.
91. Overall, based on the evidence, I do not consider that it has been demonstrated that the rezoning of the subject land contributes to a well-functioning urban environment as defined in **Policy 1** of the NPS-UD. I also consider that the proposed rezoning will not make a significant contribution to the improved provision of more affordable housing within the Greater Christchurch urban environment (**Objective 2**).
92. The reliance on the NPS-UD requires a significant contribution to housing capacity, which in turn means there is less opportunity to reduce the scale of the proposed rezoning such that it represented a well-functioning urban environment. In summary, the scale is too large in the context of the receiving environment, and the extent of the

²³ PC31 IHP Decision, paragraph 211.

change/reduction required to meet **Objective 1/Policy 1** in terms of urban design is such that the resulting proposal may then not meet the qualifying criteria in terms of adding significantly to development capacity (**Policy 8**).

Conclusion

93. In conclusion, I consider that **Policy 8** of the NPS-UD provides an opportunity to allow consideration of an unanticipated or 'out of sequence' development proposal that meets the significant capacity threshold and represents a well-functioning urban environment (**Objective 1/Policy 1**). As the higher order document, the NPS-UD provides such an "opportunity" that might otherwise be precluded by the CRPS. This reflects the central government objectives to facilitate greater opportunities for urban growth and housing.
94. The NPS-UD direction for decision-makers to be responsive does not extend to simply approving all development. My concerns relate primarily around whether the proposed rezoning will contribute to a well-function urban environment as defined by **Policy 1** of the NPS-UD. These concerns are primarily in terms of urban form and connectivity/accessibility given that Ōhoka village is not a key Activity Centre and the impact on the rural character of the area more broadly given the relative scale of what is proposed.
95. In my view there are more suitable alternatives were the sequencing of infrastructure and connectivity by way of existing transport networks provide far better accessibility for people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport. Furthermore, alternative locations would better enable a diversity of housing types, including the intensification anticipated by the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021. This would in turn result in better outcomes in terms of housing supply and affordability than can be achieved by rezoning this site.
96. On that basis I do not consider this proposal meets the threshold to justify a reliance on **Policy 8** of the NPS-UD. The proposal will not contribute to a well-functioning urban environment; it is not clear that significant development capacity will be provided (due to the identified stormwater and transportation network issues); and the proposal is not sufficiently well connected along transport corridors. According to Mr Metherell the rezoning will necessitate major intersection upgrades,

which could result in a significant delay in implementation even if the rezoning were allowed.

97. In the absence of the ability to rely on the opportunity provided by the NPS-UD, I consider the rezonings must be considered against the applicable planning provisions to determine whether they are the most appropriate way to achieve the purpose of the RMA.
98. In that instance the Proposed Plan would have to give effect to the directive provisions set out in Chapter 6 of the CRPS. There appears to be little disagreement that rezoning would not give effect to those provisions.
99. My assessment of the CRPS and PDP above is such that the rezonings are not supported. Therefore, I consider the relief sought in the submissions should be rejected having regard to the relevant statutory considerations.

Date: 13 June 2024

A handwritten signature in blue ink, appearing to read 'N Boyes', written in a cursive style.

Nick Boyes