

**IN THE MATTER OF** Resource Management Act 1991

**AND**

**IN THE MATTER OF** An application by Rolleston Industrial Developments Limited for a private plan change RCP031 to the Waimakariri District Plan pursuant to Part 2 of Schedule 1 of the Resource Management Act 1991

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**INDEPENDENT HEARING PANEL DECISION REPORT**

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## 1. INTRODUCTION

[1] The Waimakariri District Council (the Council) has appointed an independent hearings panel (panel) comprising Cindy Robinson (Chair) and Ros Day-Cleavin to hear and decide a request for a private plan change (RCP031/PC31) to the Waimakariri District Plan (WDP) pursuant to Part 2 Schedule 1, of the Resource Management Act 1991 (RMA) by Rolleston Industrial Developments Limited (the applicant/application) for a private plan change (RCP031/PC31) to the Waimakariri District Plan (WDP).

[2] RCP031 seeks changes to the WDP to rezone 156 hectares of rural land to residential and commercial zoning to provide for a master planned urban development at Ōhoka, providing for approximately 850 residential allotments.

[3] In response to public notification, 648 submissions and 8 further submissions (submissions) were received. A total of 844 primary submission points were recorded, and of these 32 primary submission points were in support of the plan change, 790 in opposition to it and 23 neutral.

[4] We have been delegated the functions and powers necessary to hear the application and submissions pursuant to clause 10 of Schedule 1 of the RMA.

### **The hearing**

[5] The hearing was held in Rangiora and took place on 3, 4, 7, 8, 9 August 2023 and resumed for the applicant's right of reply on 11 September 2023. The hearing was formally closed on 18 September 2023.<sup>1</sup>

[6] The applicant was represented by legal counsel Ms Appleyard who called 23 witnesses in support of the application. The applicant's witnesses and the nature of their evidence are recorded in Appendix 1.

[7] 42 submitters attended the hearing, representing 53 submitters. Submitters who presented spoke to their/others' submission and/or or tabled further written material. The Canterbury Regional Council was represented by legal counsel Ms Edwards and called 7 expert witnesses. Submitter #260 was represented by legal counsel Ms Scully. A list of submitters who were heard is attached in Appendix 2.

[8] The Council had two separate roles at the hearing. Firstly, in fulfilment of its regulatory planning functions the Council commissioned an independent planning expert, Mr Andrew Willis to review the application and submissions and make recommendations to the panel under s42A of the RMA. Mr Willis relied on the subject experts listed in Appendix 3. Secondly, the Council appeared as a submitter in opposition to the proposal, represented by legal counsel Mr Schulte. Mr Schulte called 5 expert witnesses to support the Council's submission (Council (as submitter)) also listed in Appendix 2.

[9] We have considered all legal submissions, evidence and written submissions and further submissions and the materials presented or tabled during the hearing. Given the

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<sup>1</sup> Minute 9

number of submitters we have not referred to all submitters in our report, rather we have grouped issues raised across submissions. Where it has been useful to highlight specific matters presented to us, we have done so, and we note this does not diminish the value or weight of material provided by others. We are not required to make a recommendation on every individual submission.

## **Site Visit**

[10] We undertook two site visits to familiarise ourselves with the RCP031 site and its location within the broader environment.

[11] Our first visit was after the applicant presented its case and before we heard from submitters. Our visit involved a walk around the existing Ōhoka village starting on Whites Road near the domain. We made our way up Whites Road to locate key water bodies (including the Ōhoka Stream and the naturalised spring channel) to understand the location and extent of development components and proposed mitigations and then returned to the service station and along Mills Road. We identified the location of a number of submitters and viewed the site from these locations, continued to the Bradleys Road intersection and then we walked along Bradleys Road towards the Transpower transmission lines.

[12] We visited the Ōhoka locale again following adjournment of the hearing by car. We first travelled from Rangiora to Kaiapoi, we then travelled to the site via Ōhoka Road. We visited residential subdivisions including Keetly Place, Wilsons Drive and Hallfield Drive to see the development pattern in the area and the extent and nature of lifestyle and larger residential lot subdivisions within and around Ōhoka. We visited the school on Jacksons Road. We drove on Bradleys Road to observe rural farming land transitioning to the rural lifestyle environment towards Mandeville North and visited Modena Place. We continued to drive onto Tram Road and stopped at the reserve at the Corner of Whites Road and Tram Road and then continued along Tram Road to the State Highway 1 interchange overpass and on to Kaiapoi before returning to Rangiora via Lineside Road.

## 2. THE PROPOSAL

[13] The site comprises 156 hectares and is located at 511, 531, 535 and 547 Mill Road and 290 and 344 Bradleys Road and is for the most part bounded by Whites, Mill and Bradleys roads, Ōhoka. The land is legally described as Part Rural Section 2220 held in Certificate of Title CB26B/467, Lot 1 Deposited Plan 318615 held in Certificate of Title 72971, Lot 2 & 3 Deposited Plan 318615, Lot 2 and Part Lot 1 Deposited Plan 8301, and Lot 2 Deposited Plan 61732 held in Certificates of Title 72972, 72973, CB19B/21, and CB36C/1075, Part Lot 1 Deposited Plan 2267 held in Certificate of Title CB742/18, Lot 1 Deposited Plan 55849 held in Certificate of Title CB35A/112, and Lot 2 Deposited Plan 55404 held in Certificate of Title CB33F/218. The subject land is currently zoned Rural in the operative Waimakariri District Plan.



**Figure 1 - Aerial photograph indicating the subject land in its wider setting (Source: RCP031 s32)**



**Figure 2 – Current Operative District Plan zoning of the site and surrounding area (Source: RCP031 s42A Report).**

[14] The request for a plan change was received by the Council under the RMA cl 25 of Part 2 of Schedule 1 and publicly notified on 9 July 2022.

[15] A list of all submissions and further submissions (submissions/submitters is contained and summarised in Appendix 2 to the Section 42A Report (s42A) prepared by Mr Willis.

[16] RCP031, if approved, would enable up to 850 residential sections with site sizes ranging from 600m<sup>2</sup> -1000m<sup>2</sup>, two small commercial zones, and provision for a school and retirement village (the proposal).

[17] RCP031 is a master planned development and is subject to an Outline Development Plan (ODP) which would be incorporated into the WDP. The applicant argued the ODP integrates with and enhances the existing Ōhoka village, including through:

- (a) additional commercial retail facilities that cater for local convenience shopping and services with potential for work and office spaces.
- (b) off-street parking.

- (c) a 106-stall park n ride facility for public transport.
- (d) a hardstand area that could cater for the local farmers' market in the winter season.
- (e) approximately 850 residential units, as well as a possible primary school, retirement village and a polo field and associated facilities.
- (f) a substantial blue-green network that provides opportunities for movement, recreation, and the ecological enhancement of waterways, open green spaces and riparian margins; and
- (g) a well-connected network of multi modal movement and high amenity streets and public facilities that complements the existing setting.

### **Changes requested to the Waimakariri District Plan**

[18] The application as notified proposed the following changes to the WDP to accommodate the proposal.

- (a) Change the zoning from rural to Residential 3, Residential 4A, Residential 8 and Business 4 zoning.
- (b) Add a new definition of Educational Facility.
- (c) Amend the explanation to Policy 16.1.1.1 (Business Zones) to refer to the additional zoning at Ōhoka on planning map 185.
- (d) Insert new Policy 16.1.1.12 to accommodate business zoning at Ōhoka and make consequential changes to the Principal Reasons for Adopting Objectives, Policies and Methods 16.1.4.
- (e) Amend the explanation to Policy 18.1.1.9 Constraints on Subdivision and Development as it relates to Ōhoka to change the density description: where larger allotments ~~dwellings are situated within generous settings comprising an average~~



lot size of between 0.5—1.0 hectare surround smaller properties which form a walkable community around the village centre.

- (f) Amend Chapter 30 Utilities and Traffic Management Rules 30.1.1.9, 30.6.1.1 to include new zoning at Ōhoka.
- (g) Amend Chapter 31 Health, Safety and Wellbeing Rules 31.1.1.4, 31.1.1.6 to include residential 8 zoning at Ōhoka.
- (h) Amend Rule 31.1.1.10 “Structure Coverage” to provide for Residential 8 zone and Business 4 Zone at Ōhoka.
- (i) Amend Table 31.1.1 Minimum Structure Setback Requirements to include Residential 4A, Residential 8 and Business 4 Zones at Ōhoka.
- (j) Amend Structure Height Rules 31.1.1.24 and 35 to include reference to Ōhoka Residential 4A, Residential 8 and Business 4 zones.
- (k) Amend Rules 31.1.1.39 and 49, to include reference to Residential 4A Zone at Ōhoka.
- (l) Insert new Rules 31.1.1.53 and 31.1.1.54 to include landscaping and fencing requirements for Residential 3, Residential 4A and 8 Zones at Ōhoka.
- (m) Amend Rule 31.2.2 to include Residential 8 Zone for a retirement village at Ōhoka.
- (n) Insert new rule 31.2.3 for Educational Facilities in the Residential 8 Zone at Ōhoka.
- (o) Amend Table 32.1.1.1 Subdivision to include Residential 3 and 8 Zones at Ōhoka.
- (p) Amend Residential 4A Zone Rule 32.1.1.11 to include provision for 3300m<sup>2</sup> average allotment size for the Residential 4A Zone at Ōhoka.

- (q) Amend Rule 32.1.1.28 to include new clause ak) compliance with zoning and bespoke outline development plan (Figure 3 below) for Ōhoka.
- (r) Insert a new Rule 32.3.7 making non-compliance with Rule 32.1.28 ak) a discretionary activity.



**Figure 3 – Proposed Outline Development Plan (Source: RCP031 Appendix 4 ODP).**

[19] The application included an assessment pursuant to Section 32 (s32) of the RMA as an appendix to the application.<sup>2</sup>

[20] Various further changes to the above provisions, including changes to the type of residential zones and new rules to address matters that arose during the hearing were proffered in the applicant’s evidence, and a final revised version was presented in the applicants right of reply.<sup>3</sup> The final revised version of the proposed changes to the WDP including the outline development plan are included in Appendix 4.

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2 Request for Change to the Waimakariri District Plan, Novo Group Report  
 3 Evidence in chief Mr Walsh 7 July 2023; summary evidence Mr Walsh presented at the hearing 3 August 2023 and supplementary evidence Mr Walsh in closing 5 September 2023. Attached as appendix 6 to supplementary closing legal submissions.

[21] The differences between the application as notified and the final revised version are as follows:

(a) Changes to the zoning:

- (i) Proposed Residential 3 changed to Residential 2<sup>4</sup>.
- (ii) Removal of proposed Residential 8 zone, now subject to Residential 2 with an overlay providing for Educational Facilities. Removal of proposed Residential 8 height (12m) and site coverage (45%) rules and replacement with Residential 2 requirements (8m and 35%).
- (iii) Removal of 500m<sup>2</sup> minimum allotment size and replacement with 600m<sup>2</sup> minimum allotment size.
- (iv) Provision of a polo field as an overlay in new Residential 2 zone.
- (v) Discretionary consent for bespoke roading design.

[22] We note that in relation to (a)(i) above, the applicant explained that there is very little difference between the two zones in terms of District Plan rules, and while it causes a temporary inconsistency between the existing Residential 3 Zone at Ōhoka and RCP031, it will be resolved via the Proposed Plan process. The applicant has sought General Residential for the plan change site via its submission on the Proposed Plan. It has also sought that the proposed Settlement Zone (equivalent to the existing Residential 3) at Ōhoka be changed to General Residential.<sup>5</sup>

(b) Changes to the ODP to:

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4 Evidence in chief Mr Walsh at [103]

5 Evidence in chief Mr Walsh at [103]

- (i) Require any additionally identified springs identified to be assessed to determine an appropriate buffer distance and increase setbacks for the Northern Spring Head shown on the ODP from 20m to 30m.
- (ii) Specific measures to monitor groundwater and spring flow to inform the construction and methodologies to ensure that shallow groundwater is not diverted away from its natural flow path for those areas where the shallow groundwater is likely to be intercepted by service trenches and hardfill areas.
- (iii) Stream ecology monitoring and riparian planting plans.
- (iv) Flexibility to in tree and plant selection.
- (v) Landscape plans to have input from a freshwater ecologist with a minimum of the first 7 metres of the spring and stream setbacks reserved for riparian vegetation only and restrictions on impervious surfaces.
- (vi) Addition of a five-year landscape treatment maintenance period.
- (vii) Requirement for a landscape management plan.
- (viii) Reference to 26-hectare area of the site adjacent to Whites Road that cannot be attenuated for stormwater, and the requirement to demonstrate hydraulic neutrality up to the 50-year event and if neutrality cannot be achieved, the density of development within that area may need to be reduced.
- (ix) Reference to the management, design and/or treatment of roads within the subdivision.
- (x) Reference to further consideration of minor works to carriageways and roadside hazards, and interim safety improvements at the Tram Road/Whites Road intersection.

- (xi) Reference the National Grid transmission line traversing the site, and planting and maintenance of landscaping beneath the National Grid.
  - (xii) Requirement for electric vehicle charging within all residential properties.
  - (xiii) Prohibition of keeping of cats within the ODP to be enforced by developer covenants.
- (c) New Rule 27.1.1.34 requiring dwellinghouses to have a floor level of 400mm above the .5% Annual Exceedance Probability except areas subject to Medium Flood Hazard where the floor level shall be 500mm above the .5% Annual Exceedance Probability flood event.
  - (d) Retraction of the proposed (as notified) amendments to Rules 30.1.1.9, 30.1.6.1.1, 31.1.1.4, 31.1.1.6, 31.1.15A, 31.1.1.24, 31.1.1.54, 31.2.3, 31.5.10.
  - (e) New rules 31.1.1.9A and 31.1.50A to require dwelling houses at Ōhoka settlement to be in accordance with any Council approved design guidelines.
  - (f) The amendment of Rule 31.1.1.53 to include the Residential 2 zone and the requirements for all allotments greater than 2.500m<sup>2</sup> to have no less than 15% of the site to be planted in native vegetation.
  - (g) The addition of a polo field within the ODP and associated rules 31.2.11, 31.4.7.
  - (h) Addition of new Policy 18.1.1.9A to provide for activities that support the Ōhoka settlement including educational facilities, a retirement village and a polo field and associate facilities.
  - (i) New Rule 31.3.9 to include a retirement village excluding permitted activity conditions 31.1.1.4 and 31.1.1.6.
  - (j) Also new rules 31.4.5, 31.4.6, 31.4.7, 31.4.8?

- (k) New Rule 31.5.10 for land use that do not comply with Rule 31.1.1.67.
- (l) New Rule 31.3.10 in relation to Education facilities in the Residential 2 Zone.
- (m) Limitation of retail activities to 2,700m<sup>2</sup> gross floor area cap (excluding the farmers market) in Rule 31.26.4 and reference to limits on retail distribution effects on the Business 4 Zone at Manderville in Policy 16.1.1.12.
- (n) Increased setbacks from water bodies including Ōhoka Stream, South Ōhoka Branch, northern and southern spring channels and the groundwater seep origin.
- (o) Addition of rules 31.1.1.67 and 32.2.16 applying to land use near the National Grid – Residential 4A (Ōhoka).
- (p) New Rule 32.2.17 making subdivision in the Residential 2 and 4A zones beyond 250 residential allotments a restricted discretionary activity with assessment restricted to safety and efficiency of the Tram Road/State Highway interchange. With notification limited to Waka Kotahi – New Zealand Transport Agency absent its written approval.
- (q) New Rule 32.2.18 making subdivision in the Residential 2 and 4A zones beyond 250 residential allotments a restricted discretionary activity with assessment restricted to the outcome of traffic assessments to be undertaken in consultation with the Council to determine what (if any) upgrade is required in respect of either the Mill Road/ Ōhoka Road, Flaxton Road/Threlkelds Road and Mill Road/Threlkelds Road intersections.
- (r) New Rule 32.2.19 in the Residential 2 and 4A zones beyond 250 residential allotments a restricted discretionary activity with assessment restricted to the outcome of a traffic assessment undertaken in consultation with the Council to determine what upgrades, if any, are required in respect of Tram Road/Whites Road intersection.

- (s) New Rule 32.2.20 in the Residential 2 and 4A zones beyond 450 residential allotments a restricted discretionary activity with assessment restricted to safety and efficiency effects in respect of the Bradleys Road/Tram Road intersection (unless a roundabout has been constructed at this intersection).
- (t) New Rule 32.4.14 Any subdivision of land within the Residential 4A Zone (Ōhoka) identified on District Plan Map 185 that does not comply with Rule 32.2.16 is a non-complying activity.

[23] The applicant did not provide a further evaluation of the changes made to the proposal in accordance with s32AA RMA. We return to the evaluation under s32 and 32AA later in our report.

[24] We have considered whether the proposed changes are within scope of the application. Having considered the legal tests in *Palmerston North City Council v Machinery Movers*<sup>6</sup> and *Clearwater Resort Limited v Christchurch City Council*<sup>7</sup>, we are satisfied that the changes proposed generally fall within the spectrum of the application as notified and relief sought by submissions. On this basis the changes do not present any legal scope issues and we have proceeded to consider the plan change, along with the changes put forward in the final revised version, in our assessment of the merits of the plan change and in light of the submissions received.

### 3. THE ISSUES

[25] Ms Appleyard opened the case for the applicant by emphasising the national policy direction in the National Policy Statement on Urban Development 2020 (NPS-UD) as a response to New Zealand's housing crisis, including issues relating to housing affordability, the diverse and changing needs of people and communities, and development capacity

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6 *Palmerston North City Council v Machinery Movers Limited* [2013] NZHC 1290 at [90]

7 *Clearwater Resort Limited v Christchurch City Council HC Christchurch AP 34/02*, 14 March 2003.

meeting housing demands. A primary tenet of the applicant's case was the contention that the Council is not currently meeting the NPS-UD objectives to provide sufficient housing capacity at all times throughout the district and that as a consequence the Council is required by legislation to act now by being responsive to plan changes, such as RCP031 which address the problem.

[26] The applicant submitted that the core issues in determining this application are:

- the proper interpretation of the NPS-UD.
- considerations around the timing of the provision of infrastructure.
- the application (or not) of the National Policy Statement for Highly Productive Land (NPS-HPL); and
- the potential for groundwater interception to give rise to a consenting issue.

[27] We have also considered the appropriateness of the plan change having addressed the matters within sections 74, 75 and 76 and an evaluation under s32 and s32AA RMA.

[28] In addition to the interpretation and application of the NPS-UD and relevant provisions of the RMA, submissions raised issues about the effects of RCP031 on:

- (a) The rural character of Ōhoka Village.
- (b) Localised flooding effects, including groundwater and springs.
- (c) Traffic safety on the local roading network and the Tram Road/ State Highway 1 interchange.
- (d) Feasibility and timing of water supply, wastewater and stormwater management.
- (e) Availability and provision for public and alternative modes of transport.



- (f) Impact of the proposal on aquatic and terrestrial ecology; and
- (g) Scale and function of the proposed commercial centre.

#### **4. POLICY FRAMEWORK FOR URBAN GROWTH IN CANTERBURY**

[29] Urban growth in Canterbury has, since the Christchurch Earthquakes of 2010 and 2011, been constrained by objectives and policies of the Canterbury Regional Policy Statement (CRPS). Map A in Chapter 6 (Map A) identifies the location and extent of urban development that will support recovery, rebuilding and planning for future growth and infrastructure delivery in Greater Christchurch. Map A represents a policy 'hard line' to contain and consolidate urban growth for those purposes. The key directives in the CRPS are:

- (a) Objective 6.2.1 (3), which “avoids urban development outside of existing urban areas or greenfield priority areas for development”.
- (b) Objective 6.2.2, which seeks “consolidation and intensification of urban areas, and avoids unplanned expansion of urban areas”.
- (c) Objective 6.2.6 to “identify and provide for Greater Christchurch’s land requirements for recovery and growth of business activities in a manner that supports the settlement pattern brought about by Objective 6.2.2.”
- (d) Policy 6.3.1.(1) to “give effect to the urban form identified in Map A which identifies the location and extent of urban development that will support recovery, rebuilding and planning for future growth and infrastructure delivery”.
- (e) 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.”

[30] The CRPS was amended in 2021 under the streamlined Schedule 1 RMA process to accommodate additional Future Development Areas (FDA) due to an identified shortfall in housing supply in the Waimakariri and Selwyn districts (Change 1).

[31] Change 1 was promulgated following work undertaken by the Regional Council, Waimakariri District Council, Selwyn District Council and the Christchurch City Council which identified that there was unlikely to be sufficient development capacity in the Waimakariri and Selwyn districts in the medium and long term through to 2048.<sup>8</sup> Change 1 identified future housing development in Rolleston (Selwyn District) and in Rangiora and Kaiapoi in the Waimakariri District. Change 1 amended Map A and provided policies to support the inclusion of the future housing development areas. These areas are not zoned for urban development yet, however, their inclusion in the CRPS provides the opportunity for the affected Councils to progress plan changes to support growth when it is needed. RCP031 is outside of the areas identified for future development in the CRPS and as such the policy directive in Chapter 6 remains to avoid developments such as RCP031.

[32] The RCP031 site is not identified as a GPA for residential development, FDA, nor is it within the projected infrastructure boundary shown on Map A.

[33] It was accepted by planning witnesses; Mr Walsh for the applicant, Ms Mitten for Canterbury Regional Council, Mr Boyes for the Council (as a submitter) and Mr Willis (the independent planner who prepared the s42A Report) that RCP031 does not give effect to the objectives and policy framework for urban growth in the CRPS.

[34] It was accepted by counsel for the applicant, Regional Council and Council (as submitter) and expert planning witnesses, Mr Walsh, Mr Willis, Ms Mitten and Mr Boyes, that unless the responsive planning approach provided for in the NPS-UD Policy 8 applied to RCP031, there was little prospect that this application could succeed. We agree with that conclusion, having considered the evidence and submissions received on RCP031. Without

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8 Our Space, Future Development Strategy for Environment Canterbury, Christchurch City Council, Selwyn District Council and Waimakariri District Council.

the application of a policy directive to consider a plan change under the responsive planning terms of Policy 8, this development would not give effect to the CRPS and therefore could not succeed.<sup>9</sup>

## 5. NATIONAL POLICY STATEMENT FOR URBAN DEVELOPMENT 2020 (NPS-UD)

[35] The NPS-UD provides for a structured and integrated approach to providing more housing for people in or near centres and close to their work and community services in a way that contributes to a well-functioning urban environment. The NPS-UD requires local authorities to regularly assess and respond to the housing needs of their communities by providing sufficient housing capacity to meet the expected demand for housing and businesses at all times, including the short, medium and long term. This requires regular surveying, analysis and responsive planning processes to address any anticipated shortfall. This is articulated in the following objectives and policies:

- (a) **Objective 1** seeks the achievement of well-functioning urban environments that enable all people and communities to provide for their social, cultural and economic wellbeing, and for their health and safety, now and in the future.
- (b) **Objective 2** is directed at improving housing affordability by supporting competitive land and development markets.
- (c) **Objective 3** requires regional policy statements and district plans to enable more people to live, work, and access community services within areas of an urban environment in which one or more of the following apply:
  - (i) the area is in or near a centre zone or areas where there are many employment opportunities.

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<sup>9</sup> Applicant's opening legal submissions at [11]; Evidence in chief Mr Boyes at [12]

- (ii) the area is well serviced by existing and planned public transport<sup>10</sup>
  - (iii) there is a high demand for housing or business relative to other areas within an urban environment.
- (d) **Objective 4** acknowledges that urban environments generally, including their amenity values may change in response to the diverse needs of people, communities and future generations.
- (e) **Objective 5** requires planning decisions relating to urban environments, and FDS's, to take into account Te Tiriti o Waitangi.
- (f) **Objective 6** requires that decisions on urban development that affect urban environments are;
- (i) integrated with infrastructure planning and funding decisions; and
  - (ii) strategic over the medium and long term; and
  - (iii) response, particularly in relation to proposals that would supply significant development capacity.<sup>11</sup>
- (g) **Objective 7** directs councils to keep up to date and robust information about their urban environments to inform planning decisions.
- (h) **Objective 8** requires New Zealand's urban environments to support reductions in greenhouse emissions and be resilient to current and future effects of climate change.

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10 NPS UD Part 1, cl 1.4 "Planned" in relation to forms or features of transport means planned in a regional land transport plan prepared and approved under the Land Transport Management Act 2002

11 We note here that development capacity is defined and incorporates the requirement for adequate development infrastructure which we discuss further below.

[36] The objectives are to be implemented through the following policies:

- (a) **Policy 1** sets out as a minimum the factors that contribute to a well-functioning urban environment (discussed further below).
- (b) **Policy 2** requires Councils to provide at least sufficient development capacity to meet expected demand for housing and business over the short, medium and long term.
- (c) **Policy 3 and 4** address density and building height in and around centres.
- (d) **Policy 6** directs decision makers, when making planning decisions that affect urban environments to have particular regard to certain matters:
  - (i) The planned urban built form anticipated by those RMA planning documents that have given effect to the National Policy Statement.
  - (ii) That the planned urban built form in those RMA planning documents may involve significant changes to an area and those changes may detract from amenity values appreciated by some but improve amenity values appreciated by other people and future generations, including providing increased and varied housing densities and types, which are not of themselves an adverse effect.
  - (iii) The benefits of urban development that are consistent with well-functioning urban environments.
  - (iv) Any relevant contribution that will be made to meeting the requirements of the NPS-UD to provide or realise development capacity; and
  - (v) The likely and current effects of climate change.

- (e) **Policy 7** directs the Regional Council and Waimakariri District Council as a Tier 1 local authority to set housing bottom lines for the short medium term and long term in the CRPS and in district plans.
- (f) **Policy 8** requires a responsive approach to plan changes providing significant development capacity and contributing to well-functioning urban environments. Policy 8 is critical to this application and is discussed in detail below.
- (g) **Policy 9** requires local authorities to take account of Te Tiriti o Waitangi in relation to urban environments and prescribes certain actions to do so.
- (h) **Policy 10** directs Tier 1, 2 and 3 local authorities sharing jurisdiction over urban environments to work together and engage with development infrastructure providers and the development sector.
- (i) **Policy 11** relates to carparking.

### **Policy 8 NPS-UD**

[37] Policy 8 of the NPS-UD introduces a concept of responsive planning to enable plan changes to be considered if they would add significantly to development capacity and contribute to well-functioning urban environments, even if that they are unanticipated by RMA planning documents and out-of-sequence with planned land release.

[38] Policy 8 provides:

*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.*

[39] Ms Appleyard submitted RCP031 will add significantly to development capacity and contribute to well-functioning urban environments even if unanticipated or out-of-sequence compared to that provided for under planning documents such as the CRPS and the WDP.

[40] For Policy 8 to 'open the door' for us to consider the merits of RCP031 there are three key evidential issues that we need to address. Even if the 'door is opened', then the application still needs to be considered on its merits and assessed against the requirements of s74,75 and 76, including an evaluation under s32 or s32AA, as required.

[41] In order for Policy 8 to apply (and in addressing the three key evidential issues) we need to be satisfied RCP031:

- (a) affects urban environments;
- (b) provides significant development capacity; and
- (c) contributes to well-functioning urban environments.

#### *Urban environments*

[42] An issue which attracted debate amongst planning, landscape and urban design witnesses, and a number of submitters was what, for the purposes of the application of the NPS-UD, was the relevant urban environment.

[43] Urban environment is defined in the NPS-UD:

*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.*

[44] On the evidence that we heard from all parties we have approached the definition of urban environment broadly and accept that it can reasonably encompass a number of varying and overlapping urban environments, depending on the context being considered. We agree with the applicant's submission that the definition:

- (a) can apply over large areas rather than discrete settlements;
- (b) the words 'predominantly urban' anticipate there will be areas of rural and open space that fall within the broad definition; and
- (c) similarly, 'part of a market' anticipates areas forming a component of a market rather than areas of a market within themselves.

[45] The applicant's case in support of RCP031 was pursued on the basis that the urban environment is the Greater Christchurch area which includes Ōhoka. The applicant also considered Ōhoka to be an urban environment 'in and of itself' based on descriptions contained in the WDP, proposed District Plan (proposed plan), and Greater Christchurch urban area Map A.<sup>12</sup>

[46] The Regional Council's position was consistent with the applicant's that the RCP031 site does form part of the urban environment. This is the approach adopted by Ms Mitten, the planning witness for the Regional Council, and is consistent with the approach undertaken by the Greater Christchurch Partnership, which adopted the Greater Christchurch area as the urban environment for the purposes of implementing the National Policy for Urban Capacity which preceded the NPS-UD.<sup>13</sup>

[47] The Council's (as submitter) legal counsel sat on the fence as to whether RCP031 was within the urban environment of Greater Christchurch or an urban environment in its own right and set out arguments as to why context was important. There were differing views expressed in the Council's (as submitter) evidence, with Mr Knott, an urban designer approaching his assessment on the basis that it was not, but Mr Boyes, planning witness, on

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12 Applicant's opening legal submissions at [23]

13 Opening Legal submissions for Canterbury Regional Council at [34]



the other hand accepting the applicant's position that RCP031 was within the Greater Christchurch Urban Environment.<sup>14</sup>

[48] Mr Willis in his s42A Report highlighted some of the complexities of the definition of urban environment in this context and whilst he considered further evidence was required in order to determine the issue, in the end we understood him to accept that, irrespective of the need for further evidence from the applicant, that he considered it "likely that Ōhoka is within the urban environment" and his assessment was based on that view.<sup>15</sup> We note however that Mr Yeoman, who provided his economic evaluation of the proposal and Mr Nicholson who provided the urban design evaluation as part of the s42A Report both considered that Ōhoka was not intended to be part of the urban environment.<sup>16</sup>

[49] A number of submitters also questioned whether it was ever contemplated that Ōhoka, a rural village, could be considered an urban environment on the basis it was not predominantly urban.<sup>17</sup>

[50] In our view, what is the "urban environment", or "urban environments" is contextual and is not able to be determined in a vacuum. It will depend on what is being considered and whether it is at a regional, subregional, or district scale. Here we are concerned with a plan change to the Waimakariri District Plan, and the site falls within an area that is included within the Greater Christchurch sub regional area. We have considered the issues both in terms of the urban environment of the Waimakariri District and the urban environment of Greater Christchurch Area. That is because, the NPS-UD includes Waimakariri along with Selwyn and Christchurch City as 'Christchurch' for the purposes of an integrated planning approach. Further, the CRPS addresses urban growth in an integrated way within the Greater Christchurch Area shown on Map A, whilst also addressing the housing needs of Christchurch City, Waimakariri District and Selwyn District.

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14 Summary evidence of Mr Boyes at [13]

15 s42A Report at [7.3.13]

16 Summary evidence Mr Yeoman at [p36]; Summary evidence Mr Nicholson at [2.3]

17 Submitters for example R Pegler [#302], WDC [216]

[51] Ms Appleyard illustrated that from a policy perspective, Ōhoka is included within Greater Christchurch and is therefore included as part of the Greater Christchurch Urban Environment. In her opening submissions she submitted:

- (a) The NPS-UD Appendix, Table 1, defines “Christchurch” as a Tier 1 urban environment comprising of the Canterbury Regional Council, Christchurch City Council, Selwyn District Council, and Waimakariri District Council as its Tier 1 local authorities;
- (b) The CRPS requires that “at least sufficient development capacity” for housing is enabled in the Greater Christchurch urban environment and states explicitly that the Greater Christchurch area shown in Map A is the Tier 1 urban environment for the purposes of the NPS-UD;<sup>18</sup>
- (c) Our Space states at page 6 that the relevant urban environment for the purpose of the NPS-UDC<sup>19</sup> was Greater Christchurch. The NPS-UDC was the precursor for the NPS-UD;
- (d) The draft Greater Christchurch Spatial Plan which provides a blueprint for residential and business growth for the Greater Christchurch area notes that “it satisfies the requirements of a future development strategy under the NPS-UD” and that this includes setting out how well-functioning urban environments are achieved, and how sufficient housing and business development capacity will be provided to meet expected demand over the next 30 years.<sup>20</sup>
  - (i) future development strategies are required under the NPS-UD to be prepared by every Tier 1 local authority for the Tier 1 urban environment – it is submitted this must be Greater Christchurch;<sup>21</sup> and
  - (ii) although it is acknowledged that one of the purposes of a future development strategy is to “*achieve well-functioning urban environments*” (emphasis on the plural), this again demonstrates the point that there could be and are varying and overlapping urban environments at play here.
- (e) One of the core duties of the Greater Christchurch Partnership is to manage urban growth in a strategic manner for Canterbury.

In this context the term ‘urban environment’ in the NPS-UD being referenced to Greater Christchurch is the only interpretation which makes sense. In the alternative, were a narrow interpretation adopted, that for example only included specific existing townships that would be to ignore how urban Canterbury functions, and would be

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18 Canterbury Regional Policy Statement, Policy 6.2.1a - Principal reasons and explanation  
19 National Policy Statement on Urban Development Capacity 2016.  
20 Page 23, draft Greater Christchurch Spatial Plan 2023.  
21 NPS-UD, clause 3.12.

contrary to the intent of the NPS-UD in that it would prevent responsiveness and prevent local authorities from adapting to emerging issues, such as climate change.

Turning to Ōhoka itself, Ōhoka is part of the Greater Christchurch urban environment (and this is the relevant urban environment under the NPS-UD) - and is itself an urban environment - on the basis that:

Chapter 15 (Urban Environments) of the District Plan states:

*“The urban environment covers all the settlements. This includes Rangiora, Kaiapoi, Ravenswood, Oxford, Woodend and Pegasus, the beach settlements and small towns of Ashley, Sefton, Cust, Ōhoka and Tuahiwi.”*

in the Proposed Waimakariri District Plan (notified post the NPS-UD), the definition for ‘urban environment’ is the same as that in the NPS-UD and goes on to specifically include Ōhoka:

*“For Waimakariri District, the urban environment described in (a) and (b) comprises the towns of Rangiora, Kaiapoi, Woodend (including Ravenswood), Pegasus, Oxford, Waikuku, Waikuku Beach, The Pines Beach, Kairaki, Woodend Beach, the small towns of Ashley, Sefton, Cust, Ōhoka, Mandeville, and all Large Lot Residential Zone areas and Special Purpose Zone (Kāinga Nohoanga).”*

and

Greater Christchurch urban area map (or Map A) shows the Ōhoka as an ‘existing urban area’. While the Greater Christchurch urban area map was created for different purposes prior to the NPS-UD, it is now used by the Greater Christchurch Partnership to determine compliance with the NPS-UD.

The evidence of Ms Mitten demonstrates this when she states that Plan Change 1 to Chapter 6 (which implements the actions of Our Space 2018-2048 and by among other things inserting Map A of the Greater Christchurch urban area) was intended to give effect to requirements in the NPS-UD.<sup>22</sup>

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

[53] However, for the purposes 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.

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<sup>22</sup> Evidence in chief Ms Mitten at [62]

[54] For the purposes of the application of the NPS-UD policy 8 we have accepted that the application site is both within an urban environment of Waimakariri District and Greater Christchurch.

### *Significant development capacity*

[55] Part 3 of the NPS-UD sets out the methods for implementing the objectives and policies contained in Part 2 of the NPS-UD. The implementation methods do not override the requirements to give effect to the objectives and policies, however, they set out how it is anticipated that councils are to approach implementation of the objectives and policies.

[56] In terms of the implementation of Objective 6 and Policy 8, clause 3.8 specifically addresses plan changes that would provide significant development capacity that is not otherwise enabled in a plan or is not-in-sequence with planned land release. The method directs councils to have particular regard to the development capacity provided by a plan change if that development capacity would contribute to a well-functioning urban environment; is well connected along transport corridors and meets the criteria for significance in a regional policy statement. Regional Councils are directed to include criteria in their regional policy statements for determining what plan changes will be treated, for the purposes of Policy 8, as adding significantly to development capacity.

[57] Ms Mitten's evidence was that such matters are to be included in changes to the CRPS when it is reviewed later in 2024. We note that these matters were not addressed in Change 1 to the CRPS approved in 2021. Notably, in the legal technical peer review undertaken as part of the streamlined process for Change 1, Hon, Lester Chisholm referenced this intended work when reviewing the Council recommendations on submissions that sought to rezone land outside of Map A in reliance on Policy 8.<sup>23</sup> He said:

[88] In my opinion the 'fixed non contestable boundaries' on Map A are not, of themselves, contrary to the NPS-UD. They are a fundamental component of the

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23 Report to Minister for the Environment on Proposed Change 1 to the Canterbury Regional Policy Statement, March 2021; Appendix 7 Technical Peer Review of draft recommendations report prepared by Hon. Lester Chisholm, March, 2021.

strategy that has been evolving over time, and Change 1 cannot be divorced from its history and context. It is part of an ongoing process, with the implementation of Policy 8 still to come. To the extent that submitters are seeking a 'responsive' and flexible approach by virtue of Policy 8, a touch of reality is required. NPS-UD only came into force after the streamlined planning process for Change 1 had commenced and CRC is working on that issue.

[89] As the Council has noted in response to a number of submissions on this topic, NPS-UD is a higher order document under the RMA and decision makers assessing plan changes will need to consider the implications of the national direction alongside the policies contained in Chapter 6. It is unrealistic to expect those matters to be resolved overnight.

[58] We have referred to this because we considered that one possible interpretation of Policy 8, is that it is intended that its utility awaits the inclusion of 'significance' criteria as directed by clause 3.8 of the NPS-UD in the CRPS, and although time has moved on since Change 1, the Regional Council is continuing to progress changes to its policy framework to include significance criteria.

[59] The planning witnesses, however, generally accepted that Policy 8 still applies notwithstanding the absence of 'significance' criteria. We have adopted their approach.

[60] It is a prerequisite that in order to qualify as 'significant development capacity', that adequate development infrastructure is likely to be available to service the development. Both development capacity and development infrastructure are defined as follows:

**Development Capacity** 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 to the relevant proposed and operative RMA planning documents; and
- (b) The provision of adequate development infrastructure to support the development of land for housing or business use.

**Development Infrastructure** means the following, to the extent they are controlled by a local authority or council-controlled organisation (as defined in section 6 of the Local Government Act 2002);

- (c) Network infrastructure for water supply, wastewater, or stormwater.

(d) Land transport (as defined in s5 of the Land Transport Management Act 2003).<sup>24</sup>

[61] As we discuss further below at [150] – [173] and [180] - [234] there was considerable debate amongst the expert witnesses and submitters as to the adequacy of development infrastructure including the proposed stormwater and land transport infrastructure.

[62] In our view if the development is not likely to be served by adequate development infrastructure, then regardless of the potential dwelling yield, the development would not provide “significant development capacity” and would not benefit from the direction in policy 8.

[63] “Adequate” is defined in the Oxford Dictionary as: “satisfactorily or acceptable in quality or quantity”. “Significant” means sufficiently great or important to be worthy of attention.

[64] The likelihood of development infrastructure being available within medium and long term<sup>25</sup> (as defined in the NPS-UD) is material to considerations of adequacy and therefore the significance of development capacity.

[65] For example, the prospect that stormwater attenuation and treatment infrastructure may be unavailable due to lack of a consenting pathway due to construction methods intercepting groundwater, or the unavailability of public transport alternatives in the foreseeable future, or uncertainty regarding delivery of necessary required roading upgrades all impact on the quantity and quality of development infrastructure and therefore the significance of development capacity offered by RCP031.

[66] For the reasons discussed below, we have concluded that public transport alternatives are unlikely to be available in the medium term. The need for local roading and

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24 s5 LTMA definition of land transport—(i) transport on land by any means: (ii) the infrastructure, goods, and services facilitating that transport; and (b) includes—(i) coastal shipping (including transport by means of harbour ferries, or ferries or barges on rivers or lakes) and associated infrastructure: (ii) the infrastructure, goods, and services (including education and enforcement), the primary purpose of which is to improve public safety in relation to the kinds of transport described in paragraph (a)(i)

25 medium term means between 3 and 10 years and long term means between 10 and 30 years.

intersection improvements provide an initial constraint on development, however, on the evidence before us we are satisfied that local roading improvements can be addressed so as to provide adequate development infrastructure in the medium term.

[67] We note here that roading upgrades to the interchange at the intersection of Tram Road and SH 1 Motorway, and local road intersection improvements, cap development capacity that is likely to be available as a consequence of RCP031 to a yield of 250 residential allotments, with no certainty as to if and when such upgrades can be made to support the development. Based on the definition of development infrastructure, given this issue is a matter for Waka Kotahi, rather than the Council, it does not affect the definition of significant development capacity, however, the lack of certainty as to whether improvements can be achieved provide a constraint on the realisation of development capacity for an unknown period of time.

[68] The applicant's case was primarily based on delivering 850 residential allotments, however, given the potential impediments to realising that yield, the applicant advanced a fallback position in closing that those 250 houses remained significant. Mr Walsh relied on the supplementary evidence from Mr Akehurst that WDC housing capacity calculations for the medium and long term are likely to be well short of the requirements of the NPS-UD and any additional capacity is significant in that context.<sup>26</sup>

[69] If Mr Akehurst is correct, 250 allotments would still be numerically significant in the face of the alleged shortfall, however, at 250 allotments, the development is even less likely to achieve aspects of a well-functioning urban environment, as we come to conclude below.

#### *Evidence on capacity*

[70] It was the applicant's position that the Council has significantly overestimated available housing capacity in the district due to errors in the input data used in the modelling

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<sup>26</sup> We note that counsel for the applicant made it clear that the applicant was not changing the proposal to reduce the ODP

which it says included land that was not available for development or errors in the degree of development anticipated by the model.

[71] The WDC engaged Formative Limited, an independent consultancy specialising in economic, social and urban form issues. Formative undertook the Waimakariri Capacity for Growth Modelling (WCGM22) which has informed the District Plan review and the Intensification Planning Instrument required by the Resource Management (Enabling Housing Supply and other Matters) Act 2021.

[72] The Housing Capacity Assessment (HCA) that was released by the Greater Christchurch Partnership uses the capacity results from the WCGM22 Research.

[73] Mr Rodney Yeoman a director of Formative and the co-author of the WCGM22 research reviewed the application as part of the s42A Report.<sup>27</sup> Mr Yeoman has degrees in Commerce (Economics) and in Law from the University of Auckland and an Honours degree in Economics from the Australian National University.

[74] The scope of his contribution to the s42A report, which was co-authored by his fellow director Mr Derek Foy, was to provide a professional opinion on the merits of RCP031 from an economics perspective, taking into account the economic assessment lodged with the application, submissions on the application, and other matters they considered are relevant. Specifically, the report addressed:

- (a) advice on housing demand for Ōhoka relative to other areas of Waimakariri District and Greater Christchurch, and relative to projected supply.
- (b) comments on RCP031's implications for affordability and competition.
- (c) comments on whether the proposal will contribute significantly to development capacity.

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27 s32A Report Appendix 4 Plan Change Economic Review and Support, Formative



- (d) commercial land supply and distribution matters with regards to the proposed commercial area and potential impacts on the centres in the district.
- (e) the distribution of costs and benefits; and
- (f) responses to the following submissions: Waimakariri District Council (216), A Low (416), Mandeville Village Partnership (551), and S Wells (562).

[75] We return to Mr Yeoman’s cost benefit review of the proposal in our evaluation later. In terms of the issue of capacity we note that Mr Yeoman revised his initial assessment of anticipated growth and housing capacity provided in his evidence in light of the evidence of Mr Walsh and Mr Sexton for the applicant which identified a number of sites where development was either not possible or more limited than had been assumed in the modelling data. In his summary evidence he set out the revised sufficiency assessment in the medium term and long term which we reproduce below.<sup>28</sup>

**Waimakariri Urban Environment Sufficiency - Capacity vs Demand (plus competitiveness margin)**

Urban Environment	Medium- Term	Long-Term
<b>WCGM22</b>	5934	14450
PC31 corrections	-53	-137
Revised capacity	5881	14313
Demand plus[sic] Margin	5600	13250
Revised Sufficiency	<b>281</b>	<b>1063</b>

[76] Mr Yeoman concluded that whilst the Council was meeting the minimum requirements the Council would need to continue to monitor the situation. He noted that the Council was not precluded from providing more capacity.<sup>29</sup> Similarly, Mr Boyes, planner for the Council (as submitter) noted that should a shortfall be identified, Council is able to re-assess the NDAs and potentially consider identifying further land in order to meet its obligations under Policy 2 of the NPS-UD. In his view, should the applicant’s observations

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28 Summary evidence Mr Yeoman at [24]

29 Ibid at [25].

regarding a potential shortfall be correct, it does not assist the potential success of RCP031 to the extent suggested.<sup>30</sup>

[77] Mr Akehurst an economist engaged by the applicant to provide evidence on RCP031 was concerned with the possible over estimation of capacity in the medium term and the consequences for supply and affordability.

[78] Although Mr Yeoman has acknowledged some errors, having revised his results, he remained confident that although the margin was small in the medium term, the built in 20% margin required by the NPS-UD meant the modelled output was conservative. In response to questions from us, prompted by a memorandum from the applicant, Mr Yeoman provided more granular detail of the input data and assumptions for his modelling work.<sup>31</sup>

[79] Mr Sexton undertook further ground truthing of available land within the district and a desk top GIS analysis to identify areas that may have been incorrectly included in the WCGM22 model.<sup>32</sup> The result of which was that further possible discrepancies were identified and the figure setting out the differences is reproduced below.<sup>33</sup>

Figure 1: Reassessment of WDC Medium Term Residential Capacity, Aug 2023

Location	WCGM 22 Capacity per Mr Yeoman's Minute 5 response	Validated Capacity (Based on subdivision plan)	Validated Capacity (Gross area - 12.5% x 15hh/ha)	Difference in Capacity (Validated vs WCGM22)
<b>Rangiora:</b>				
Bellgrove	<b>952</b>		800	<b>-152</b>
Townsend Fields	<b>419</b>		370	<b>-49</b>
Summerset Retirement Village	<b>211</b>		182	<b>-29</b>
Flaxton Village	<b>59</b>		52	<b>-7</b>

30 Evidence in chief Mr Boyes at [66].

31 Mr Yeoman's response to Minute 5 questions from the hearing panel, 18 August 2023

32 Supplementary evidence Mr Akehurst at [12]-[16].

33 Figure 1 from memorandum of Mr Sexton, 30 August 2023 "Review of Formative WCGM22 Development Model" appendix 1 Supplementary Evidence of Mr Akehurst, 5 September 2023

East Rangiora	76		66	-10
<b>Kaiapoi:</b>				
Beach Grove	332	330		-2
Silver Stream	89		65	-24
Future Silver Stream	44		41	-3
The Sterling	137		90	-47
Momentum	116		0 (not med term)	-116
<b>Woodend/Pegasus:</b>				
Ravenswood	969	677		-292
Commons Lifestyle Village	131		114	-17
Woodland Estate	104	75		-29
Eders	42		45	+3
Parsonage/Gladstone Road	148		119	-29
Gladstone South	18		73	+55
Pegasus	369	86		-283
<b>Vacant/infill</b>	<b>WCGM 22 Capacity per Mr Yeoman's Minute 5 response</b>	<b>Validated Capacity (desktop and site inspections)</b>		<b>Difference in Capacity (Validated vs WCGM22)</b>
Rangiora Vacant lots	379	248		-131
Rangiora infill	355	270		-85
Kaiapoi Vacant lots	277	174		-103
Kaiapoi infill	292	273		-19
Woodend/Pegasus Vacant lots	413	209		-204
Woodend/Pegasus Infill /intensification	2	2		0
<b>Total Medium Term Household Capacity</b>	<b>5934</b>	<b>4361</b>		<b>-1573</b>

[80] It was Mr Akehurst's opinion that the key finding from Mr Sexton's exercise is that the WCGM22 has overstated residential capacity which would be realistically realisable and commercially feasible in the medium term by 1,573 dwellings. His opinion is that this means that instead of providing just sufficient capacity to meet short and medium-term needs, the Council now finds itself some 1,239 dwellings short ( $5,934 - 1,573 = 4,361$  capacity compared with 5,600 anticipated growth, plus competitive margin). Therefore, he concluded that instead of having more than 10 years capacity identified, Waimakariri District has less than 8.

[81] We have reviewed the explanations to our questions in Minute 5 provided in Mr Yeoman's response and the memoranda of Mr Sexton and Mr Walsh attached to Mr Akehurst's supplementary evidence and accept that it does demonstrate the limitations of the

modelling exercise undertaken by Formative, due to the fact that it presents a theoretical picture of development capacity and was not extensively ground truthed by Formative. We conclude on the evidence of Mr Sexton, Mr Walsh and Mr Akehurst that there is a very real likelihood that the model has overstated residential capacity. It was also Mr Yeoman's opinion, that the WCGM22 modelling results illustrated that the margin (without accounting for the additional matters identified by Mr Sexton in Figure 1), is small. The degree to which Mr Yeoman's modelling is reliant on additional capacity as a consequence of the Housing Intensification Planning Instrument being advanced as part of the District Plan review is not clear, and will no doubt be subject to scrutiny in the review of the District Plan currently underway.

[82] We have also considered the evidence of Mr Sellars, a valuation and real estate expert, on behalf of the applicant that, within the Waimakariri District, housing demand focuses on single dwellings on larger allotments. Mr Yeoman accepts that to be the case. Mr Willis in his supplementary s42A report, noted that, notwithstanding that fact, there is evidence of increasing medium housing density in Rangiora and Kaiapoi, and he referenced a number of developments that he was aware of and noted that there are likely to be more.<sup>34</sup>

[83] The preference for single dwellings on larger allotments is evident in the Mandeville and Ōhoka area. We also heard from Mr Carter that it is increasingly common for developers of greenfield areas to include covenants that prevent housing intensification. Whilst it is not suggested this was unlawful it appears counterproductive in the context of the current housing shortage, requirements of the NPS-UD to contribute to well-functioning urban environments and the additional restrictions on development on highly productive land in the NPS-HPL.

[84] If Mr Akehurst is correct, then the Council has not provided sufficient housing capacity in the medium and long term and positive action is required by the Council. We note here that the Council is currently reviewing the District Plan and Environment Canterbury is intending to notify a review of the CRPS later next year. We would strongly recommend that irrespective

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34 Supplementary statement Mr Willis Appendix 3

of the outcome of this application the Council take steps to review the calculations provided by Formative and review realisability of the areas currently identified for future urban growth within the district.

[85] We note that the NPS-UD addresses how Councils should respond to identified shortfalls in capacity. Part 3, clause 3.7 directs steps that a Council is required to follow in the event that a shortfall is identified, including alerting the Minister, and amending the relevant planning documents, which could, as occurred with Change 1, be subject to a streamlined process, rather than the standard Schedule 1 process. We accept that consideration of a private plan change, which delivers significant development capacity and contributes to a well-functioning environment within a timeframe where a shortfall might exist is another legitimate process.

#### *Constraints on other land within the district*

[86] As part of the applicant's argument that the proposed development represents significant development capacity it sought to demonstrate that significant parts of the district are unavailable or at least have limited development capacity due to a range of policy and environmental constraints.

[87] These constraints include:

- (a) Flooding risk
- (b) Tsunami risk – coastal inundation
- (c) Liquefaction risk
- (d) Airport noise (Christchurch Airport Noise Contour and Rangiora Noise Contour)
- (e) Speedway noise avoidance contour
- (f) Versatile soils

(g) Reserves/Open Space zones

(h) Sites of significance to Māori (but not Māori Reserve 873 and/or the Special Purpose Zone Kainga Nohoanga).

[88] Each of these constraints were mapped by Mr Walsh and presented as part of his evidence in chief.<sup>35</sup> Following further direction from the panel, the expert planning witnesses Mr Willis, Mr Walsh, Ms Mitten and Mr Boyes conferenced and presented an agreed set of constraints maps based on existing policy directives and or other constraints.<sup>36</sup> We note that the experts did not attempt to determine the weighting or significance to urban growth and development of each constraint. Both Mr Walsh and Mr Willis addressed this in their evidence and had different opinions regarding weighting. We have considered the areas of disagreement between the planning experts but note two particular matters that address constraints affecting Kaiapoi.

#### *Airport noise constraints*

[89] It is clear that significant parts of Kaiapoi and parts of the district are affected by noise from aircraft utilising Christchurch International Airport (CIA). In the CRPS, on Map A and in the WDP, noise contours show land that is subject to noise levels of 50dBA Ldn. Policy 6.3.5 (4) only provides for *“new development that does not affect the efficient operation, use, development, appropriate upgrading and safety of existing strategic infrastructure, including by avoiding noise sensitive activities within the 50dBA Ldn airport noise contour for Christchurch International Airport, unless the activity is within an existing residentially zoned urban area, residential greenfield area identified for Kaiapoi, or residential greenfield priority area identified in Map A ...”*.<sup>37</sup>

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35 Evidence in chief Mr Walsh at [51] – [85] and Attachment B.

36 Joint Witness Statement in relation to development constraints, 17 August 2023.

37 CRPS Policy 6.3.5(4)

[90] As a result of a recent review of CIA noise projections as required by the CRPS Policy 6.3.11 the CIA combined 50dBA airport noise contour was published by Christchurch International Airport Limited (CIAL) in May 2023 which the applicant advised was recently confirmed by the Canterbury Regional Council Peer Review in June 2023. The combined 50dBA noise contour covers areas in Kaiapoi identified as FDAs and raises the issue as to whether that land remains appropriate for future development.

[91] The resolution of that issue, and whether the current exemptions in Policy 6.3.5 (4) will remain, be extended or removed, awaits the review of the CRPS later next year. We note for our purposes there is a dispute between Mr Walsh, who considers that it is uncertain as to whether Policy 6.3.5 applies to Kaiapoi FDAs<sup>38</sup> on the one hand and Mr Willis, Mr Boyes and Ms Mitten who consider that the Kaiapoi FDAs and other parts of Kaiapoi are expressly excluded from application of the Christchurch Air Noise Contour by virtue of policy 6.3.5 (4). Mr Willis and Ms Mitten also consider that the 2023 CIA noise contour is not operative until the CRPS has undergone a schedule 1 process and is therefore not currently relevant to RCP031. Mr Walsh is less certain that it is not relevant. We note that he included the 2023 modelled contour rather than the contour shown on Map A and in the WDP in his initial constraints mapping exercise.

[92] We are not required to make a finding in this context as to whether the revised combined air contour trumps the mapped 50dBA contour, because we are not being asked to make decisions or recommendations on whether or not land is, or is not, available for urban development in other areas of the district. RCP031 is not affected by the CRPS airport noise policies. The relevance of the constraints mapping as we see it is that it serves to illustrate the applicant's point that the Council has, in reliance on the Formative WCGM22 output alone, likely overestimated development capacity in the District and there is a real risk that a shortfall exists in the medium term because some areas included in the WCGM22 do not take account of policy or environmental constraints that may preclude or limit the availability of land for housing and therefore positive action is required under the NPS-UD.

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38 Mr Walsh refers to the principal reasons and explanations' for policy 6.3.5 CRPS.

### *Flooding risk*

[93] Another area of disagreement between the planning witnesses was the extent to which flooding risk affecting the Kaiapoi NDA, is a constraint on the realisability of development capacity in that location. Mr Walsh considered development in these areas was unlikely on the basis of CRPS Policy 11.3.1 which seeks avoidance of new subdivision, use and development of land in high hazard areas<sup>39</sup>, whereas Mr Willis was of the view risks could be mitigated so they are no longer a high hazard. He referred to recent examples in Kaiapoi of urban development that has successfully managed high hazard flood risk. Mr Bacon further elaborated on this in his summary evidence, referring to recent works undertaken by Council as part of the Government's Shovel Ready programme which has provided mitigation for flood displacement for flood displacement effects for the Kaiapoi NDA, along with additional work that may be required to raise the land to manage flooding effects.<sup>40</sup>

### *Conclusion on relevance of constraints*

[94] We have concluded that urban growth within Waimakariri District is constrained by a number of factors. The extent to which airport noise effects and flooding risk will prevent the realisation of development provided for in FDA areas around Kaiapoi in particular, thereby diminishing the long term development capacity which is assumed in the Formative research, is not a matter that we have had sufficient evidence to draw any findings beyond accepting that the applicant has successfully demonstrated that the Council likely needs to provide for additional development capacity within the District to accommodate growth in the medium term and long term, particularly if the constraints identified come into fruition.

### *Findings on significant development capacity*

[95] We have concluded that the proposed 850 residential allotments meet the definition of significant development capacity and even if restricted to 250 residential allotments due to

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39 Evidence in chief Mr Walsh at [37] and Summary Evidence at [13]

40 Summary evidence Mr Bacon at [26]-[29]



the requirement for and lack of certainty for improvements to the Tram Road/SH 1 interchange, it would also satisfy the definition of significant development capacity, on the basis that there is evidence that the Council has overestimated the available development capacity in accordance the requirements of the NPS-UD. The applicant, however, confirmed for us that the reduced scale ODP is not on the table.

[96] Even if RCP031 does provide significant development capacity, it must also contribute to a well-functioning urban environment.

### *Well-functioning urban environments*

[97] Well-functioning urban environments has the meaning in Policy 1 of the NPS-UD.<sup>41</sup>

Policy 1: Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum: 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
- (iii) have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and
- (iv) 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
- (v) support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and
- (vi) support reductions in greenhouse gas emissions; and

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41 NPS-UD 1.4 Interpretation

(vii) are resilient to the likely current and future effects of climate change.

[98] The applicant submitted that Policy 8 requires RCP31 to *contribute* to an existing well-functioning environment, and the list of matters in Policy 1 are not criteria which must each be met by one particular proposal, but rather it is necessary to demonstrate that the proposal would contribute to at least one of those matters, and not substantially detract from the other matters (i.e., a balancing exercise). In any case, the Applicant's case is that RCP031 would contribute to all of these criteria.

[99] Ms Edwards for the Regional Council highlighted that the list of matters that contribute to a well-functioning urban environment are not exhaustive and are a minimum. Mr Schulte for the Council (as submitter) relied on Mr Boyes assessment of the matters in Policy 1. Mr Boyes concluded that a well-functioning urban environment must meet all of the criteria in the policy.<sup>42</sup> Mr Willis' view was the same as Mr Boyes.

[100] Many submitters have made submissions covering well-functioning environment topics; including the following highlighted by Mr Willis in his report:<sup>43</sup>

- a. CCC (548) state the proposal does not give effect to Policy 1(a)(i) (variety of homes), Policy 1(c) (good accessibility) and Policy 1(e) (GHG emissions) in the NPS-UD. CCC considers there has been no quantification of how the plan change sets out to achieve this important outcome sought by the NPS-UD;
- b. R Kimber (525) considers the development does not have good accessibility between housing and jobs and community services, is not near a centre zone, is not well serviced by public transport (PT) and will not support a reduction in greenhouse gas emissions and the urbanisation of Ōhoka will not contribute to a well-functioning urban environment;
- c. P Trumic (34) considers the encouragement of satellite subdivision is a negative planning approach noting it is sprawl connected by roads and it will catalyse social problems in time;
- d. G Power (5) and B McGirr (13) want established towns (e.g. of Rangiora, Kaiapoi and

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42 Evidence in chief Mr Boyes at [70].

43 at [7.3.14] and [7.3.15]:

Woodend and Oxford) to grow instead;

- e. R Hill (12) considers the proposal does not support financially struggling town centres as it creates a decentralised population;
- f. S Davison (31) considers the proposal is contrary to planning which aims to limit greenfield / protect farmland and concentrate it in and around brownfield sites, considering the development is isolated from existing physical and social infrastructure and does not support town and city centres;
- g. The Ōhoka Residents Association (431) considers RCP031 does not give effect to the NPS- UD as it does not contribute to a well-functioning environment and is not the type of development that the NPS-UD seeks to promote;
- h. WDC (216) considers RCP031 has not demonstrated that the proposal will result in a well-functioning environment (paragraph 23), noting that the proposal is connected to a residential settlement that is not a KAC or has the existing infrastructure to service a development of this size.

[101] Contrary to these submitters, A Clark (8) supports subdivision in this location in close proximity to the motorway, sports fields, schools and shopping.

[102] We do not agree with the applicant's interpretation that Policy 1 requires a balancing exercise and that it is enough to meet one criterion and not substantially detract from the others. The wording of Policy 1 prescribes a minimum set of criteria which we consider must be met in a positive or at least a neutral way.

[103] We have approached our assessment of well-functioning urban environments by considering each matter in turn, having considered the evidence and submissions on each topic.

*(a) Have or enable a variety of homes:*

*That meet the needs, in terms of type, price, and location, of different households; and enable Māori to express their cultural traditions and norms; and*

[104] We accept the evidence of Mr Jones that there is a demand for low density housing in a rural setting such as provided in part of the development and that living in a rural setting

may be attractive to many seeking a rural lifestyle setting.<sup>44</sup> We do not accept that Mr Jones' evidence or analysis goes so far to show a 'high demand' for properties in this location relative to other areas in the District as contemplated by NPS-UD Objective 3. Mr Jones' evidence was relatively superficial based on internet enquiries and interest from people seeking a rural lifestyle, rather than providing any quantitative comparison of the areas.<sup>45</sup> The development, even if capped at 250 sections in the medium term will meet some housing need for low density living and the possibility of a retirement village, although at 250 allotments that seems less likely. Mr Carter's evidence about the likelihood of covenants to prevent further intensification, would constrain a greater range of housing choice. Mr Boyes highlights that the proposed development contains little variation in the way of housing typology, and only two zoning densities are proposed in order to achieve a minimum density of 12 household per hectare, averaged only over the Residential 2 land.

[105] While we did not receive specific evidence on the extent to which the development would specifically have or enable a variety of homes that would enable Māori to express their cultural traditions or norms, the applicant had received a report from Mahaanui Kurataiao Limited (MKT), following consideration of the development by Te Ngati Tūāhuriri Rūnanga.<sup>46</sup> The MKT Report highlighted the significance of the natural resources of the site including water (waterways, waipuna (springs), groundwater and wetlands), mahinga kai, indigenous flora and fauna, cultural landscapes and land which are taonga and integral to the identity of ngā rūnanga manawhenua and they have kaitiaki responsibility to protect them. A number of recommendations were made by MKT regarding the proposal, including increased waterbody setbacks, incorporation of locally sourced indigenous planting, sediment controls, best practice stormwater management and incorporation of Ngāi Tahu Subdivision and Development Guidelines, particularly regarding stormwater management, water supply and use (grey water recycling) and indigenous planting. Te Ngati Tūāhuriri Rūnanga also

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44 Evidence Mr Jones at [9]-[12]

45 We were also told by the applicant that the proposed subdivision has not been marketed to spark additional interest, but submitters spoke of seeing a web site dedicated to the site early on when the proposal was first notified but was subsequently taken down. We didn't receive any documentary evidence that was the case but note the different accounts.

46 Appendix J Applicaiton

recommended the inclusion of an Accidental Discovery Protocol consistent with Appendix 3 of the Mahaanui Iwi Management Plan.

[106] Mr Walsh confirmed that those matters have been addressed in the proposal.<sup>47</sup>

[107] We have concluded that RCP031 does enable a variety of homes, in a location where it will meet some housing needs, but it does not provide for a variety of needs.

*(b) have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and*

[108] The development as notified incorporates two areas of land to be zoned Business 4, to provide a range of commercial activities to provide local retail and commercial services commensurate to the scale of the development, and accommodation to host the popular Ōhoka farmers market during the winter months.

[109] As we discuss later at [333]-[350] we have concluded that if the development proceeded that there is insufficient evidence to justify two commercial centres, and that a consolidated and capped GFA in one commercial area would be a preferable outcome.

[110] If the development is capped or limited to 250 sections in the medium term there is uncertainty as to the timing and delivery of a commercial centre for the site.

*(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;*

[111] Having considered the evidence below we are not satisfied that RCP031 is located such that it has good accessibility for all people between housing, jobs, community services, including by way of public or active transport. The site is removed from the main townships of Rangiora and Kaiapoi within Waimakariri District, and future residents will still need to travel

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47 Evidence in chief Mr Tim Walsh at [221]

some distance to work either within the District or Greater Christchurch, with limited opportunities for public transport connections. Mr Walsh focused on the trend towards working from home, however, this appeared anecdotal, and we observe not all jobs are amenable to working remotely, so we place little weight on that current trend as being indicative of accessibility to jobs.

[112] The site is not sufficiently near to Kaiapoi, Rangiora or Christchurch to make active transport a realistic alternative to meet day to day needs of future residents, and there are significant traffic safety issues on the surrounding roading network that connects the site to Rangiora and Kaiapoi identified by Mr Binder. We find it highly unlikely that active transport is a realistic alternative for this location, except within the site itself. Although the development intends to provide a local commercial centre and supports the hosting of the farmers market during the winter months, these services do not provide for all day-to-day needs. Families with secondary school students, sporting interests and those working in Rangiora, Kaiapoi or Christchurch will travel to meet their day-to-day needs. We note the applicant proposed the addition of a polo ground within the master plan, in recognition of a high interest in equestrian sports in the district. We received evidence from submitters that the ground conditions were likely to be unsuitable and the polo community was also well served within the district.<sup>48</sup> Whether or not a polo ground can be accommodated within the ODP is not material to our consideration of whether the development contributes to a well-functioning urban environment.

[113] We agree that the development does provide good accessibility to natural and open spaces by active transport, within the immediate vicinity of the development and if approved, within the site, including the domain, but that private vehicle travel remains a dominant mode of transport to access sporting and community facilities at Mandeville, Kaiapoi and in Rangiora, and Christchurch. We discuss these matters later at [181]-[234].

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48 Submitter R Magee [#325]

[114] As we discuss below at [188]-[196] Ōhoka is not currently served with existing or planned to public transport and it unlikely that that position would change in the medium term.

*(d) support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets;*

[115] The extent to which RCP031 will limit adverse impacts on, the competitive operation of land and development markets, is dependent on whether the development can be realised at 850 allotments or is capped due to transport infrastructure constraints at 250 allotments.

*(e) support reductions in greenhouse gas emissions;*

[116] We find that the RCP031 is unlikely to support reductions in greenhouse gas emissions to any significant degree. Based on the evidence we have heard, we find that RCP031 will perpetuate the reliance on private motor vehicles for travel by future residents to Rangiora, Kaiapoi, and Christchurch for work, education and community services. We discuss the evidence regarding greenhouse gas emissions below at [201] – [214].

*(f) are resilient to the likely current and future effects of climate change.*

[117] We are satisfied that the development within the ODP can be designed in a manner that is resilient to the likely current and future effects of climate change.

*Findings on whether RCP031 contributes to a well-functioning urban environment.*

[118] Having considered the minimum requirements provided for in Policy 1 against the evidence and submissions we find that RCP031 does not contribute to a well-functioning urban environment at either 850 allotments or at 250 allotments. Notwithstanding our conclusion that RCP031 does not meet the requirements of Policy 8 of the NPS-UD we have also considered the application on its merits.

## 6. EVIDENCE AND SUBMISSIONS

[119] In the following sections we consider the evidence and submissions in response to the merits of the proposal. We adopt the structure and approach taken in the s42A report where key issues and subjects are grouped under topics.

### Land Suitability

#### *Issues*

[120] Key matters in contention during the hearing and in written submissions included whether the NPS-HPL could be applied to the site, and the impact of the proposal on the productive potential of the site.

[121] For completeness, we understand that all issues relating to potential land contamination and geotechnical matters are not in dispute. Mr Willis concluded in his s42A Report that he accepted the s32 assessment on land contamination and that any contamination issues could be adequately managed at subdivision stage, and that there are no known geotechnical issues that would obstruct the plan change.<sup>49</sup>

#### *Submissions and Evidence*

#### *NPS-HPL*

[122] It was agreed by all that the site was predominantly class 3 soils with a small area (approximately 3% of the site) class 2. Prima facie those soils are considered to be highly productive land. However, the definition of Highly Productive Land in the NPS-HPL expressly excludes land proposed to be zoned for rural lifestyle purposes. The site is proposed to be zoned rural lifestyle in the proposed plan.

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49 s42A Report at [6.5]



[123] The applicant did not address the question as to whether the NPS-HPL applied to the site in the application documentation or s32 assessment, however Mr Walsh relied on a legal opinion prepared by Chapman Tripp at Attachment F of his evidence to the effect that it did not<sup>50</sup>. Ms Appleyard reiterated that conclusion in her opening legal submissions. Counsel for the Canterbury Regional Council and the Waimakariri District Council agreed.

[124] Counsel for submitter Janet Hadfield submitted to the contrary and argued that the NPS-HPL applied on the basis that the land had not been rezoned from a rural zone as it is still a rural zone at its core and the exemption under clause 3.5.7(b)(ii) does not apply.<sup>51</sup> She submitted that the implications of the land not being classified as HPL is that the NPS-HPL can never apply to all land that has been zoned Rural Lifestyle Zone (RLZ) in the proposed plan which in her legal opinion, would be a perverse outcome.<sup>52</sup>

[125] We initially understood the applicant to argue that irrespective of the outcome of the District Plan review, even if the land reverted to rural zoning it would never be treated as Highly Productive Land as a consequence of the exemption provided in clause 3.5(7)(b)(ii) of the NPS-HPL.

[126] Ms Edwards in her legal submissions for Canterbury Regional Council submitted that *“if it is determined through the proposed Waimakariri District Plan process that the “rural lifestyle” zone is not the most appropriate zone for the PC31 site, and the land is zoned rural instead, there is a policy gap as a result of the NPS-HPL until such time as the Regional Council carries out its mapping exercise in accordance with the requirements of clause 3.4 of the NPS-HPL”*.<sup>53</sup>

[127] Ms Appleyard in her closing legal submissions explained that the mapping exercise required under clause 3.5(1) must occur by 17 October 2025 and would not prevent the Regional Council from including land as highly productive in its mapping that has been

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50 Evidence Mr Walsh, at [65].

51 Legal submissions for Janet Hatfield submitter #260, at [25]

52 Ibid at [21]

53 Legal submission for Canterbury Regional Council, at [54]

determined as not being appropriate as rural lifestyle under the Proposed Plan (noting in that case, the land would likely revert to rural zoning). She further explained that the “*NPS-HPL: Guide to Implementation*” is clear that the intent of this exception to the interim application of highly productive land was so that the NPS-HPL did not undermine the work undertaken by Councils to date to provide for ‘urban’ land in their District.<sup>54</sup>

[128] Ms Appleyard set out a detailed explanation in her closing legal submissions, with reference to the s32 analysis supporting the proposed plan, as to why it is clear the Council had already contemplated (in its decision to notify) that the rural productive capacity of the rural lifestyle zones would be compromised by that zoning, as compared with general rural zone.<sup>55</sup>

[129] Mr Willis, in his supplementary evidence, stated that based on recent Council advice to the Proposed District Plan Hearings Panel on 30 June, he agreed that the NPS-HPL did not apply.<sup>56</sup> He noted the agreement between the Council and the applicant that as of 17 October 2022, the area was proposed to be re-zoned RLZ in the proposed plan, and the RLZ is not subject to the NPS-HPL. He considered this interpretation to be the most defensible interpretation of the application of the NPS-HPL. Legal Counsel for both Canterbury Regional Council<sup>57</sup> and the Waimakariri District Council<sup>58</sup> (as submitter) agreed with the applicant’s legal interpretation that the NPS-HPL does not apply to the site.

[130] Notwithstanding that the NPS-HPL does not prohibit the proposal, the effects of the proposal on the loss of highly productive farmland remains a matter to be weighed in our evaluation of RCP031.

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54 Applicant’s closing legal submissions at [87]

55 Ibid [93-94]

56 Supplementary evidence Mr Willis at [39]

57 Legal submission for Canterbury Regional Council at [51].

58 Legal submission for Waimakariri District Council at [34].

### *Loss of productive farmland*

[131] As detailed in the s42A report, many submitters raised the issue of the loss of productive farmland and the need to protect the productive use of the land.<sup>59</sup> Several submitters spoke to us about their concerns in this regard at the hearing<sup>60</sup> and variously noted the success of existing and historic productive activity of the land, the need to preserve farm land for future food production, that the NPS-HPL should apply to the land, the cumulative impact of losing highly productive land in the District and Region and the national issue of increasing fragmentation, that the proposed rezoning of the land does not represent a sustainable use of land, and the reliability of the applicant's soil assessments.

[132] The applicant's expert Mr Mthamo presented evidence on versatile soils and the impact of the proposal on the productive potential of the site.<sup>61</sup> He explained that the RCP031 subject land comprises Land Use Capability (LUC) Classes 2 (2.45%) and 3 (97.55%) soils and highlighted the constraints which in his view affects the productive capacity of the site.<sup>62</sup> These constraints included: the poor drainage of the site; variability in the nature and extent of LUC 2 and LUC 3 soils across the site affecting the management of the land; moisture deficits and irrigation availability; nutrient limits under the Canterbury Land and Water Regional Plan (CLWRP); and the Drinking Water Protection Zone overlay reducing the area that is available for productive use.

[133] Mr Mthamo (in addressing the costs of losing the site for land-based primary production within the context of land which would remain available for primary production in the Waimakariri District and Canterbury Region) stated that the site represents a reduction of only 0.0002% and 0.0016% respectively under the CRPS definition of highly productive land.<sup>63</sup> He noted that his assessment of alternative sites within the area had not identified any sites which in an overall sense would be less suitable for land-based primary production than the

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59 s42A Report at [6.5.4]

60 Submitters for example N Mealings [#638], E&J Hamilton [#249], J&C Docherty [#640 & 283], D Nicholl on behalf of Ōhoka Rural Drainage Advisory Group [#251], P Driver [#135], T Curran [#609]

61 Supplementary evidence Victor Mthamo, 3 August 2023.

62 Ibid at [7].

63 Supplementary evidence Mr Mthamo at [8]

proposed site.<sup>64</sup> He concluded that the applicant's proposal would result in the negligible loss of LUC Class 2 and 3 soils both within the District and the Region.

[134] Mr Ford, a consultant from AgriBusiness Group, who provided a report appended to the s42A Report<sup>65</sup> concluded that the highest and best use of the land as a primary productive land use is for dairy farming. He considered intensive horticultural land use to be unsuitable for a range of regions including poor drainage, cold winters, potential to generate reverse sensitivity effects, and the distant location of the site from any post-harvest packaging and processing facilities.<sup>66</sup> Mr Ford was supportive of submitters' concerns relating to the loss of highly productive land and agreed that the land can be used for a wide range of potential land uses. He concluded that rural productive activities are commercially viable on the subject site.

[135] We heard from Dr Tim Curran, a submitter who is a Professor in Ecology and Natural Resource Management at Lincoln University about his concerns that the proposal would result in the substantial loss of finite resources, namely highly productive soils. In his view, even if the NPS-HPL is found not to apply to the plan change site, the productive potential of the subject land is still relevant to consider. He relied on s7 RMA relating to having particular regard to finite characteristics of natural and physical resources.<sup>67</sup>

[136] In support of Dr Curran's submission, Professor Peter Almond, an Associate Professor at Lincoln University who specialises in deciphering the patterns and properties of soils in the landscape, both natural and agricultural, spoke to us about the impact of the proposal on highly productive land. He commented that the evidence presented by Mr Mthamo is substantively correct concerning the characterisation of the land, but that it makes some inappropriate interpretations, fails to identify the favourable characteristics of the land, and misrepresents the accepted knowledge about the influence of land use capability on the economics and environmental impacts of intensive agriculture.<sup>68</sup> He supported Dr Curran's

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64 Ibid at [9].

65 Appendix 3. Rural Productivity s42A Report

66 Appendix 3 Productivity Assessment, s42 Report.

67 Submitter Dr T Curran [#609].

68 Evidence statement Professor Peter Almond at [20]

contention that if approved, the plan change will amount to a loss of HPL constituting 156ha, or at least 109ha of areas unavailable for primary production as presented by Mr Mthamo, are excluded.<sup>69</sup>

[137] Christchurch City Council's (CCC) written submission stated that productive land in the Canterbury Region holds substantial value as it contributes to the sustainability of the Region through providing land on which locally grown and sourced produce can be farmed appropriately.<sup>70</sup> This then reduces the transport costs associated with the distribution of food to Christchurch City and provides for a variety of land uses in the surrounding Region. CCC considers there are more appropriate alternative locations to meet housing needs that do not impact on highly productive land and better achieve higher order documents, and which will be determined through spatial planning at a Greater Christchurch level.

[138] Mr Walsh, for the applicant, acknowledged, that while in his view the NPS-HPL did not apply to the site, other relevant statutory policy documents seek protection of productive rural land, particularly versatile soils. We assume Mr Walsh was referring to the policy frameworks contained in the CRPS and WDP. He agreed with the s42A Officer's assessment that the current use of the site is viable for primary production activities, while acknowledging the constraints identified in Mr Mthamo's evidence. He said the land could be subdivided as a controlled activity into four-hectare allotments, that subdivision for rural lifestyle use is the most likely outcome for the site if RCP031 were to be declined, and that such subdivision would significantly reduce the current productive value of the site.<sup>71</sup>

[139] In his supplementary evidence, Mr Walsh concluded that the potential costs associated with the loss of productive land are outweighed by benefits of providing development capacity<sup>72</sup>. In his supplementary evidence, Mr Willis acknowledged that the subject site could be subdivided to 4ha blocks and that this had the potential of undermining

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69 Ibid at [11-12]

70 Submission by Christchurch City Council (#548).

71 Evidence in chief Mr Walsh at [119-121]

72 Supplementary evidence Mr Walsh at [6.2]

its productive potential. He noted that the development outcome promoted by Mr Walsh is not certain and is not a reason in of itself to approve the proposal. He further noted that productive activity can still occur on a 4ha block as recognised by the proposed plan albeit at a reduced scale.<sup>73</sup>

### *Discussion*

[140] There appears to be agreement across legal Counsel (except Ms Scully) and evaluative planning witnesses that the NPS-HPL does not apply to the site. We do not agree with the legal submission made by Ms Scully, although we acknowledge that the Council does not appear to have aligned their use of the term rural lifestyle zone precisely with that prescribed in the National Planning Standard and this is something that may be addressed in the District Plan review.

[141] We accept the legal submissions of Ms Appleyard for the applicant that if, in the event the land in question is determined as not being appropriate as rural lifestyle under the proposed plan process, the land would likely revert to rural zoning, at which time the Regional Council could include the land as highly productive in its mapping under Clause 3.4 of the NPS-HPL.

[142] NPS-HPL aside, there is no question that the proposal will result in land currently used for dairy farming being developed for residential activities and that this represents the loss of agricultural production and versatile soils from the site, District, and Region.

[143] While the degree of loss of LUC Class 2 and 3 soils has been demonstrated to be negligible when considered within the context of the District and Region, any loss of versatile soils and productive capacity is clearly an important and relevant matter to be considered as directed by CRPS and WDP which seek protection of productive rural land, particularly versatile soils.

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73 Supplementary evidence Mr Willis, 9 August 2023.

[144] We accept Mr Mthamo's evidence to the extent that it identifies multiple constraints that may impact the future productive potential of the site. However, we note these constraints do not change the fact that the site is currently in productive use, and there is agreement that some level of rural primary production activity is viable on the site into the future.

[145] It is clear to us that the current and proposed planning frameworks provides for subdivision on the site as a controlled activity into 4ha allotments and that rural lifestyle use is the most likely outcome for the site if ideal demand scenarios were realised. This would have the effect of significantly reducing the current productive capacity of the site.

### *Findings*

[146] We are satisfied that any land contamination issues can be adequately managed at subdivision stage, and that there are no known geotechnical issues that would obstruct the plan change.

[147] We find that the NPS-HPL does not apply to the site.

[148] Turning to the other relevant statutory policy documents<sup>74</sup> which seek protection of productive rural land, particularly versatile soils, we find that the proposal will result in a minimal loss of versatile soils within a district or regional context. In reaching this view we note that if the proposal were to be declined, the subject land is likely to be developed into 4ha allotments under the current and proposed planning framework, thereby significantly reducing the productive capacity of the site.

[149] Overall, we do not consider the loss of productive soils, in and of itself, weighs against the approval of the plan change request.

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74 CRPS policies 5.3.12 & 15.3.1, and WDP Objective 14.1.1

## Three Waters Infrastructure Servicing

### *Issues*

[150] The key infrastructural servicing question in contention is the potential significance of the groundwater interception risk, including whether these matters can be left to a later stage to resolve. Related to this is the question of whether a valid consenting pathway is available to provide for the consenting of stormwater infrastructure required for RCP031.

### *Submissions and Evidence*

[151] In response to the s42A Report and submitter concerns, the applicant provided evidence from Mr McLeod (overall infrastructure requirements) with supporting evidence from Mr Steffens (potable water) and Mr O'Neil (stormwater and wastewater).<sup>75</sup> Based on this evidence, Mr Walsh for the applicant, reached the view that there is a high degree of certainty that the proposed plan change site can be serviced with three waters infrastructure and considered that detailed design matters could be appropriately addressed at subdivision stage.<sup>76</sup>

[152] We heard from many Ōhoka residents about their concerns relating to the impacts of intensification as proposed on three waters infrastructure. A common concern related to the groundwater resurgence occurring on the site and neighbouring properties and the impact of the of the proposal on flooding risk in the area.<sup>77</sup> We received photos and video footage demonstrating recent flooding events to adjacent roads and properties. Some submitters reported the tidal nature of Ōhoka stream via the Kaiapoi and Waimakariri rivers. Many submitters were concerned that there was too much uncertainty to leave the detailed infrastructure proposals to subdivision stage.

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75 Evidence in chief Mr Walsh at [143]

76 Ibid at [149]

77 Submitters for example, R Pegler [#302], A Arps on behalf of Wilson Driver Residents [#204], N Mealings [#638], B Wright [#258], E Hamilton [#249], P Trumic [#40], J & C Docherty [#640 & 283], G Edge [#606], Ōhoka Rural Drainage Advisory Group [#251], The Jones Family via tabled evidence [#193],



[153] The Ōhoka Rural Drainage Advisory Group was of the opinion that the extra stormwater runoff created as a result of the number of houses proposed will create a very serious adverse effect downstream from the site.<sup>78</sup>

[154] Roger Foy, an Ōhoka resident and chartered professional engineer, who lives directly adjacent to the proposed site, considered that the proposal “*makes very optimistic claims about the management of stormwater and associated floodrisk on the site*”.<sup>79</sup> He concluded that the applicant’s proposal does not demonstrate or give confidence that there would be no determinantal effects or costs incurred by the community or the Council because of additional surface water flows from the substantially altered site.

[155] Similarly, John Docherty, an Ōhoka resident and mechanical engineer consultant, expressed uncertainty with regard to the accuracy of the applicant’s modelling which he perceived to be uncalibrated and therefore unreliable to inform a stormwater management proposal.<sup>80</sup>

[156] We heard from various experts throughout the course of the hearing on three waters infrastructural servicing, including Mr McLeod, Mr Steffens and Mr O’Neil for the applicant, Mr Wilkins for ECAN, Mr Bishop for WDC as submitter, and Mr Roxburgh for WDC. In Minute 4 we directed expert conferencing on the topics of groundwater and surface water issues and implications for stormwater management. A Joint Witness Statement (JWS) was received on 18 August 2023.<sup>81</sup>

[157] The JWS confirmed that:

- i. all experts agree that viable **wastewater** options are available for the site.*

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78 Mr Nicholl on behalf of the Ōhoka Rural Drainage Advisory Group [#251]

79 Submitter R Foy [#166]

80 Submitter J Docherty [#640]

81 Joint Witness Statement, 18 August 2023. Groundwater and surface water issues and implications for stormwater management: B Wilkins (ECAN), C Margetts (ECAN), B Throssell (RIDL), E O’Neill (RIDL), T McLeod (RIDL), C Steffens (RIDL), B Veendrick (RIDL), C Roxburgh (WDC), C Bacon (WDC), S Bishop (WDC).

- ii. *all experts agree that there is no **tidal effect** at the RCP31 site.*
- iii. *relevant experts agree that there is an adequate solution to provide **potable water** via a deep onsite groundwater bore.*
- iv. *relevant experts agree that the potential decrease in **groundwater recharge** contributing flow to springs due to an increase in impervious area is unlikely to be an issue.*
- v. *relevant experts agree that the mitigation proposed in the ODP will reduce the risk for redirecting shallow **groundwater**.*
- vi. *relevant experts agree that the potential for re-directing shallow **groundwater** flow away from springs can be mitigated through appropriate design and construction of underground services, trenches and roads where they may intercept shallow groundwater.*
- vii. *relevant experts agree that 126ha can be managed for **stormwater** treatment and detention and that there is an area of approximately 26ha that cannot drain to an attenuation basin.*
- viii. *relevant experts agree that it is appropriate for detailed **stormwater** management treatment and attenuation solutions to be addressed at the subdivision stage, including a reduction in development capacity if required.*
- ix. *experts agree (with the exception of Mr Roxburgh) that the outflow from the attenuated area basis can be managed to ensure **hydraulic neutrality** is achieved across the site.*
- x. *relevant experts agree that the baseflow component (**groundwater** component) of flow to streams is a very small percentage of flow during flood events and therefore won't have a significant impact on **flooding**. Groundwater emerges in*

*stream channels and local springs but there are natural limits on the extent to which groundwater will rise because of natural discharges to these features.*

- xi. relevant experts agree that if the mitigations proposed for management of intercepted **groundwater** by infrastructure are successful then it is unlikely there will be offsite effects due to changes in groundwater flows.*
- xii. relevant experts agree that in a 200-year flood event **groundwater** flows are unlikely to have a significant impact on the difference of **flood levels** pre and post development.*

[158] Mr Willis, in his supplementary statement of evidence, accepted the agreed expert evidence relating to potable water, wastewater, on-site and off-site flood risk (including groundwater resurgence) and was confident that either the outstanding issues were no longer in dispute or there was sufficient confidence these could be resolved at subdivision stage.<sup>82</sup>

[159] Regarding stormwater attenuation, Mr Willis noted that a reduction of 26ha at the subdivision stage would reduce the overall development yield of the proposal. He considered there would be value in the applicant updating the proposed Outline Development Plan to reflect the 26ha area with the expectation that further information would be required at subdivision stage.<sup>83</sup>

[160] A matter to remain unresolved following expert conferencing related to the interception of groundwater, including whether these matters can be left to a later stage to resolve. Mr Willis commented that while all experts agreed that the mitigation proposed in the ODP will reduce the risk of groundwater interception, Council's experts considered there is insufficient certainty that all risks (e.g from wastewater and stormwater pipe trenches, swales, rain gardens / bioscapes, road subbase and downstream stormwater basins) would be adequately mitigated. Further, Council's experts noted that the success of the mitigations

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82 Supplementary Statement of Evidence Mr Willis at [19]

83 Ibid at [20]

would not be verified until after construction, after which time the negative impacts may be difficult to address or reverse.<sup>84</sup>

[161] Based on the JWS and Mr Roxburgh's evidence, in Mr Willis' opinion, the interception of groundwater by infrastructure remains a valid risk. Further, given the current prohibited status of a groundwater take (via interception), he remains of the opinion that it is not acceptable to leave this issue to subdivision stage, or after construction, to resolve given there is no consenting pathway available should a water take be required.<sup>85</sup>

[162] He stated that the applicant has not satisfactorily demonstrated that the site can be successfully serviced for stormwater given that interception of groundwater by infrastructure remains a risk and, on this basis, RCP031 cannot currently adequately demonstrated that the site contributes significantly to development capacity (under the NPS-UD Policy 8 as set out in his s42A report).<sup>86</sup> In reaching this view Mr Willis emphasised the detailed experience of Mr Roxburgh and Mr Bacon, whose advice he relies on, with existing development infrastructure in the District, and the consequences of infrastructure failure.<sup>87</sup>

[163] Mr Willis also observed that alternatives to swales such as kerb and channelling are identified in the JWS, however, this identified solution is not consistent with the Applicant's stated design approach to maintain rural village character, which is a key development outcome and one that has been contested through the hearing process by numerous submitters.<sup>88</sup>

[164] The applicant has maintained throughout the hearing that the issue with respect to the interception of groundwater in the CLWRP is much wider than just this application, and that the Regional Council's interpretation of the rules are a significant issue to many developers and consent applicants across the whole of Canterbury.<sup>89</sup> In her closing legal

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84 Ibid at [21-24]

85 Ibid at [22]

86 Ibid at [23]

87 Ibid at [24]

88 Ibid at [22]

89 Applicant's Closing legal submissions at [100]

submissions, Ms Appleyard stated that the Applicant's experts are confident that all the RCP031 infrastructure can be designed and constructed in a manner that will not intercept groundwater while ensuring no off-site effects.<sup>90</sup>

[165] At the reconvened hearing we asked Ms Appleyard for the applicant's legal submissions on why the applicant perceives the Regional Council to be interpreting the rules of the CLWRP incorrectly with respect to groundwater interception. We also asked for further guidance on what, if any, evidential matters relating to groundwater interception risk remained unresolved.

[166] We received the applicant's supplementary closing legal submissions on 13 September 2023. The legal submissions addressed in detail the Court of Appeal's recent decision in *Aotearoa Water Action Inc v Canterbury Regional Council* (the AWA Decision)<sup>91</sup>, the Regional Council's subsequent interpretation of the CLWRP and repercussions for the processing of resource consents, the Mayoral Forum Memorandum, and the Waimakariri District Council's interpretation of the CLWRP.<sup>92</sup> We found these legal submissions to be very helpful in our understanding of the relevance, availability, and applicability of CLWRP consenting pathways.

[167] As requested, the closing legal submissions also set out the applicant's response to the evidential risk of groundwater interception by service infrastructure for RCP31 – in terms of interception during construction, use of stormwater detention basins, swales, wastewater and stormwater pipe networks, raingardens and bioscapes and road subbase.<sup>93</sup> The legal submissions concluded that all aspects of the proposal have been designed to either entirely avoid the interception of groundwater or are able to rely on a specific CLWRP rule that is not in issue.

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90 Applicant's Closing legal submissions at [104]

91 *Aotearoa Water Action Incorporated v Canterbury Regional Council* [2022] NZCA 325

92 Applicant's supplementary closing legal submissions 2023.

93 Applicant's supplementary closing legal submissions 2023.

## *Discussion*

[168] We have carefully considered the evidence provided to us by the applicant, the s42A reporting officers, and the information provided by submitters based on their lived experience of flooding on and beyond the site.

[169] We are reassured that following expert conferencing, all relevant experts reached agreement that there is an adequate solution to provide potable water to the site, that viable wastewater options are available for the site, and that on-site and off-site flood risk (including groundwater resurgence) can be adequately managed, including through the subdivision consenting phase. We note this evidence was supported by Mr Willis.

[170] We note it is not within our jurisdiction to decide upon the Regional Council's interpretation of its own rule framework as part of this decision process. However, having considered the legal and evidential risks associated with groundwater interception and interpretation issues surrounding CLWRP consenting pathways, we are sufficiently confident that the proposal has been designed to either entirely avoid the interception of groundwater or that there is a legitimate consenting pathway available to the applicant should this be required to address the risk of interception of groundwater, which may more accurately be described as a diversion of water or a non-consumptive take or use, or fall within minor permitted takes (as distinct from planned interception equating to a take and use of water).<sup>94</sup>

[171] We have also considered the concerns of Mr Roxborough regarding the difficulties experienced in other areas in the district where, despite best practice in the design and construction of stormwater features, there have been ongoing issues regarding their maintenance and adverse effects on residents. There are practical and cost difficulties in resolving these issues post development.

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94 Applicant's Supplementary Closing Legal Submissions at [33] – [70]

[172] We are satisfied that, even if it was determined at the time of subdivision that the proposed design did create a risk of future adverse effects (and depending on the nature and scale of those effects) it would also be possible for the Council to either consider whether there needed to be a bond for a period of time or to incorporate specific contingencies in the design to cover such risks. However, in our view, this issue is not of itself an impediment to the plan change.

### *Findings*

[173] We are satisfied that RCP031 can be adequately serviced with three waters infrastructure and that detailed design matters can be appropriately addressed at subdivision stage. We are therefore satisfied that infrastructural concerns have been adequately addressed.

## **Other Non-Transport Infrastructure**

### *Issue*

[174] During the hearing an issue arose as to whether RCP031 gives effect to relevant higher order planning instruments, namely the National Policy Statement: Electricity Transmission (NPSET) and the Canterbury Regional Policy Statement (CRPS), where the RCP031 site area intersects with the National Grid.

### *Submissions and Evidence*

[175] A National Grid transmission line traverses the site subject to RCP031. This transmission line is the Islington – Southbrook A (ISL-SBK-A) 66kV overhead double circuit transmission line on steel towers.<sup>95</sup> We heard from Ms McLeod, planner engaged by

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95 Evidence in chief A. McLeod on behalf of Transpower New Zealand Limited at [14]

Transpower New Zealand at the hearing who presented expert planning evidence in relation to the matters raised in Transpower's submission.<sup>96</sup>

[176] Ms McLeod's evidence confirmed the need to operate, maintain, develop and upgrade the National Grid as being a matter of national significance and acknowledged the need for RCP031 to give effect to, in particular, Policies 10 and 11 of the NPSET; Policy 4 of the NPSUD and Policy 16.3.4 of the CRPS. She concluded that the RCP031 as notified did not give effect to the NPSET including because the WDP provisions are inadequate.<sup>97</sup> Ms McLeod provided us with proposed amendments to the ODP rules to satisfy the relief sought by Transpower.

[177] In response, the applicant agreed to the proposed amendments put forward by Transpower. Mr Walsh presented the amendments in a revised suite of amendments at Attachment 2 of his supplementary evidence. He noted that minor changes had been applied so that the amendments fit the structure of the District Plan, and that the substance of Transpower's proposed amendments are unaltered.<sup>98</sup>

[178] Mr Willis concluded that that the changes sought by Transpower in relation to additional subdivision, land use and landscaping restrictions in the vicinity of the National Grid and consultation requirements for subdivision consent could be incorporated into the WDP should the Panel be minded to approve RCP031. In his opinion the changes sought by Ms McLeod are relatively minor and are not relevant to his overall conclusions on the merits of RCP031.<sup>99</sup>

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96 Evidence in chief A. McLeod on behalf of Transpower New Zealand Limited 21 July 2023.

97 Ibid at [54]

98 Supplementary evidence Mr Walsh at [4].

99 Supplementary statement of evidence Mr Willis on behalf of the Waimakariri District Council, Appendix 1 at [26].



## *Discussion*

[179] We accept the evidence of Ms McLeod, Mr Walsh and Mr Willis in relation to the relief sought by Transpower.

## *Findings*

[180] We are satisfied that non-transport infrastructural matters have been satisfactorily resolved and that there are no outstanding issues of concern.

## **Transportation**

### *Issues*

[181] Adequate transportation infrastructure to serve the site is a key component to assessing whether the proposal provides significant development capacity that contributes to a well-functioning urban environment for the purposes of giving effect to the NPS-UD.

[182] RCP031 if approved has the potential to increase the residential population at Ōhoka, by approximately 700%<sup>100</sup> and has the potential to adversely affect the safety and efficiency of the surrounding road network.

[183] RCP031 has the potential to increase vehicle usage and contribute to increased vehicle emissions given its distance from key activity centres within Greater Christchurch.

[184] The adequacy of the availability of public and active modes of transport is a key issue under both the UPS-UD, and CRPS.

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100 Based on assumptions used in the evidence in chief of Mr Nicholson at [92]

## *Submissions and Evidence*

[185] During the course of the hearing many submitters<sup>101</sup> spoke to their various concerns relating to increased traffic pressure on surrounding roading infrastructure and associated traffic safety risks to pedestrians, school children, and horse riders; a lack of public transport options; the financial burden on ratepayers of roading upgrades and network improvements; increase in commuter traffic to and from other settlements and Christchurch City; inadequate provision of facilities for pedestrians and cyclist on surrounding roads; that the proposal does not support a reduction in vehicle emissions; and that the proposal does not meet the national and regional policies that promote well-functioning environments in terms of public and active transport options.

[186] Waka Kotahi submitted in opposition to the proposed plan change on the basis that it would not contribute to a well-functioning urban environment, would not promote a reduction in vehicle emissions and that the options for public and active transport were limited.<sup>102</sup>

[187] We heard from various experts throughout the course of the hearing on transport related matters. In Minute 4 we directed expert conferencing on topics relating to public transport options, and private motor vehicle transport infrastructure outcomes. We received Joint Witness Statements (JWSs) on these topics on 18 August<sup>103</sup> and 22 August 2023<sup>104</sup> respectively.

## *Public Transport*

[188] Ōhoka is not currently served with public transport. Commuter services between Rangiora, Kaiapoi and Christchurch are available, and there are two express bus services

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101 Submitters for example The Jones Family via tabled evidence [#193], D Stringer [#637], G Edge [#606], C Docherty [#640 & 283], P Trumic [#40], B Wright [#258], N Mealings [#638], R Luisetti [#67 & 96], R Pegler [#502].

102 Submission by Waka Kotahi [#141].

103 JWS Public Transport, 18 August 2023.

104 JWS Transport Infrastructure Provision, 22 August 2023.

(Routes 91 and 92) that link three existing Rangiora Park and Ride sites and two existing Kaiapoi Park and Ride sites.

[189] Transportation experts; Mr Fuller for the applicant, Mr Metherell for the council (as submitter), Mr Binder as part of the s42A Report and Mr Fleete (Senior Strategy Advisor Public Transport) employed by the Regional Council agreed that, if RCP031 were approved, a fixed route bus service between Rangiora and Kaiapoi via Ōhoka was not realisable in the short term but may be realisable in the medium to long-term, subject to a range of contingent factors including funding and investment priorities and patronage patterns.<sup>105</sup>

[190] In considering another fixed route option (being an extension of Route 22, linking to Kaiapoi in the morning commuter peak, and from Kaiapoi in the afternoon commuter peak) the relevant experts agreed there were several limitations constraining the viability of this option and noted it would be very unlikely to lead to any notable change in private vehicle travel from RCP031 across the whole day, with a marginal impact on peak period commuting to Christchurch.<sup>106</sup>

[191] In terms of the provision of an on-demand service, the experts agreed that such a service could be realised that would serve Ōhoka, western Rangiora and western Kaiapoi. However, due to a range of contingent matters, the experts could not reach agreement on whether an on-demand service represented a viable alternative to a fixed bus service to support southern Waimakariri with local public transport to link residents into the wider Greater Christchurch public transport network in the short, medium or long term.<sup>107</sup>

[192] Having considered the JWS, Mr Willis remained of the view that the applicant had not been able to demonstrate that the RCP031 site has good accessibility or is well serviced by existing or planned public transport for residents to access jobs and community services. He concluded that the proposal does not achieve the accessibility requirements set out in the

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105 JWS Public Transport Options, 18 August 2023, at [6-7]

106 JWS Public Transport Options at [8-9]

107 Ibid at [10-13]

NPS-UD (Objective 3(b) and Policy 1(c)). He added that in his view, a limited trial of an on-demand option does not provide sufficient certainty to justify supporting RCP031 given the PT and well-functioning urban environment requirements in the NPS-UD, the significance of the proposal and the identified transport issues.<sup>108</sup>

[193] In his supplementary evidence<sup>109</sup>, Mr Walsh for the applicant acknowledged that the experts could not reach an agreement on the viability of an on-demand service. He stated that if RCP031 were to be approved, it is likely that an attempt would be made to service it with public transport of some type at some point in the future. He maintained the view that existing and future residents of Ōhoka (and other areas) would benefit from having access to an on-demand service and noted that fewer residents would benefit from a peak period extension of fixed Route 92. He added that if neither of these services eventuated, Christchurch bound public transport services can be accessed via the park and ride facilities at Kaiapoi and Rangiora.

[194] In closing legal submissions Ms Appleyard drew our attention to the existence of a report that had been approved by Council, at a meeting following after the substantive hearing, for consultation entitled the “Waimakariri Integrated Transport Strategy” and highlighted the Council’s intent to implement a suite of actions relating to public transport services in the district. The applicant noted their disappointment that the Council experts who were involved in the conferencing on transport and public transport matters did not draw the applicant’s or the panel’s attention to the work being undertaken by Council.<sup>110</sup>

[195] Mr Willis confirmed for us that Mr Binder (as a co-author to the report) is very familiar with the contents of the report and that the expert advice provided by Mr Binder in his statements of evidence and in expert conferencing had been cognisant of the contents of the report. Ms Appleyard confirmed that other than wishing to assist the panel as to the existence

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108 Supplementary evidence Mr Willis at [18]

109 Supplementary evidence Mr Walsh at [34]

110 Applicant’s closing legal submissions at [75-77]

of the report, and the existence of a list of implementation actions on p26 of that document, there were no additional evidential matters of note.

[196] We have considered the report and are of the view that it does not diminish the evidence that we heard about the uncertainties of the likelihood of public transport options to service the site beyond acknowledging that the Council has confirmed that it is committed to exploring a range of options to improve public transport availability and accessibility across the district, which may include 'on demand' services. Whether or not these will be realisable for Ōhoka or any other rural settlement remains uncertain, which is consistent with the position reached by the transportation experts who attended conferencing.

*Private motor vehicle transport infrastructure outcomes.*

#### *Intersection improvements*

[197] The JWS<sup>111</sup> indicated general alignment amongst the experts on matters relating to intersection safety and improvements at the Bradleys Road / Tram Road intersection, Tram Road / Whites Road intersection, Mill Road / Ōhoka Road intersection and Flaxton Road / Threlkelds Road intersection. The JWS identified the need for an additional three rules that would impose development thresholds on the proposal.

[198] Mr Willis accepted the conclusions of the transport experts and was comfortable that the proposed new threshold rules could be drafted and successfully applied to the proposal.<sup>112</sup> In his supplementary evidence, Mr Walsh for the applicant confirmed acceptance of these rules and presented amended plan provisions to this effect.<sup>113</sup>

[199] Mr Willis further observed that the new proposed rules would reduce the certainty of achieving the 850 households proposed in RCP031 and could affect the timing of section

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111 JWS Transport Infrastructure Provision at [5-33]

112 Supplementary evidence Mr Willis in response to Minute 4 at [13].

113 Supplementary evidence Mr Walsh at [24] & Appendix 2 to that evidence.

delivery. In his view this is a direct consequence of providing for a development that is not currently planned for in the Council's strategic planning documents.<sup>114</sup>

[200] Mr Walsh agreed with Mr Willis that the proposed rules introduce some uncertainty in respect of achieving 850 households as proposed and may also affect delivery of the proposed development capacity.<sup>115</sup> In his supplementary evidence, Mr Walsh offered comments in respect of the proposed threshold rules and the applicant's resultant ability to achieve development capacity. He concluded that, in the worst-case scenario, it is possible that development of the plan change site may be stalled for an unknown length of time at 250 dwellings, resulting in a reduction of the proposed development potential by approximately two-thirds.<sup>116</sup>

#### *Vehicle kilometres travelled (VKT) and GHG Emissions*

[201] When assessing the proposed RCP031 provisions against the objectives of the District Plan, the applicant's s32 report acknowledges that the proposal would likely result in more private motor vehicle trips including to and from Christchurch. The s32 evaluation identifies factors that may reduce and offset increased emissions over time, including the trend towards electric vehicle ownership, a reduction in greenhouse gas emissions through the discontinuation of the current dairy farm operation on the site, and the provision of local convenience goods and services as proposed in the plan change proposal.<sup>117</sup>

[202] Mr Binder, commented that a reduction of private VKT plays a critical role in transport-related emissions but also relates directly to safety, congestion, and accessibility effects.<sup>118</sup> He noted that as of May 2023, electric vehicles make up 1.7% of the fleet, which has increased from 0.15% over the past five years.<sup>119</sup> In his view, the trend of uptake of electric vehicles is not at a rate that could be considered an effective mitigation for transport emissions within the

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114 Supplementary evidence Mr Willis in response to Minute 4 at [13]

115 Supplementary evidence Mr Walsh at [26].

116 Supplementary evidence Mr Walsh at [33]

117 Request for Change to the Waimakariri District Plan, Novo Group Report, at [pp31-32]

118 Evidence in chief Mr Binder at [20]

119 Ibid at [21]

foreseeable future. He further noted that any potential uptake of electric vehicles will not impact VKT and the resulting impacts on safety, health, accessibility, and congestion.

[203] Mr Binder identified the Emissions Reduction Plan that commits local councils to reduce VKT by light vehicles by 2035 and the likely sub-regional VKT reduction target for the Waimakariri District of 24%.<sup>120</sup> He noted that the Council identified Development Areas within the proposed plan have deliberately been co-located with Rangiora and Kaiapoi and are, at the furthest, about 3.0km as the crow flies from established key activity centres (which include existing retail, employment, health, and education destinations). In contrast, he observed that the furthest point RCP031 is almost 4.0 km from the nearest retail (the Mandeville neighbourhood centre) and 8.0 km or more from the nearest key activity centre. He concluded that the subject site is not well-located to existing urban areas and that travel distances to key facilities are likely to be higher than those from identified Development Areas (which by definition increases VKT and likely GHG emissions).

[204] In its submission, Waka Kotahi noted that there are no adequate cycle facilities from Ōhoka to Rangiora and that residents would be required to travel by private car to access other services. Further, Waka Kotahi noted that the services likely to establish within the proposed Business 4 Zone at Ōhoka would be of a similar nature to those services already provided at the Mandeville commercial centre and as such would not replace the need to travel to Rangiora.<sup>121</sup> We discussed this matter with several submitters during the hearing. Submitters reported to us that they might stop at the Mandeville commercial centre to 'top up' supplies. However, they all reported that they would travel to Rangiora or other commercial centres in the district to do the bulk of their weekly shopping and to access services and facilities.

[205] Waka Kotahi also identified the 2050 net zero carbon target as mandated by the Climate Change Response Act 2002 and that this is relevant to the NPS-UD Objective 8 and Policy 1 which addressed 'well-functioning environments'. The submission states that MfE's

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120 Ibid at [22]

121 Submission by Waka Kotahi [#141] at [16]

Emissions Reduction Plan 2022 sets out four transport targets including reducing total light fleet kilometres travelled by 20% through improved urban form and providing better travel options. Waka Kotahi considered that the proposal would likely further contribute to transport associated carbon emissions and would not help achieve a VKT reduction due to reliance on private vehicle use to access employment.

[206] We heard from transportation engineer Mr Metherell for the Council (as submitter) who expressed concern RCP031 could lead to transport outcomes that are not desirable for new urban development of the scale proposed. Including the low self-sufficiency of the development as a result of low employment in the planned urban area, leading to high travel distances to access employment and services comparable to distances associated with existing or developing urban centres. In this view this was exacerbated by the lack of choice to use other modes of transport to reduce reliance on private vehicles.<sup>122</sup>

[207] Mr Willis, having considered Mr Binder's evidence, concluded that the location of the site will result in increases in VKT and GHG transport emissions contrary to the Emissions Reduction Plan. He agreed that even with the use of electric vehicles, the impacts on safety, health, accessibility, and congestion will still increase.<sup>123</sup>

[208] In his evidence, Mr Walsh stated that while VKT may increase because of the proposal, it is difficult to determine by how much, noting that Ōhoka is closer to Central Christchurch than Rangiora, Woodend and Pegasus, and therefore reduced VKT associated with commuter traffic from Ōhoka may offset the VKT associated with dedicated trips from Rangiora, Woodend and Pegasus.<sup>124</sup> He further commented that it may not be appropriate to compare the VKT of the proposal with VKT of development locations closer to the larger urban centres in the District given the applicant's assertion that the assumed development capacity of the proposed new areas for development has been significantly overstated by the

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122 Supplementary evidence at [3.3]

123 s42A Report at [6.8.20].

124 Evidence in chief Mr Walsh at [171]



Council.<sup>125</sup> Mr Walsh also promoted the proposed commercial zone within the plan change area as having a 'VKT reducing' influence.<sup>126</sup>

[209] The applicant engaged Mr Farrelly, an engineering consultant specialising in the energy and carbon field, to address the matter of transport related GHG emissions. Mr Farrelly concluded that the proposal supports the reduction of transport related GHG emissions, relying primarily on the assertion that the proposal supports reductions in greenhouse gas emissions due to the removal of dairying activity and its associated emissions from the RCP31 land.<sup>127</sup> He was also of the opinion that the applicant had taken practical steps in the design of RCP031 to support a reduction in emissions arising from the development and occupation of dwellings from commercial building, and emissions arising from transportation.<sup>128</sup>

[210] During the hearing we heard various calculations provided by relevant experts accounting for the potential reduction of GHG emissions from the loss of dairying, the GHG emissions from the construction of the houses, and the ongoing GHG emissions from travel. Mr Willis noted in his supplementary evidence that both Mr Binder and Mr Buckley for the Council agreed that GHG emissions from the proposal would be significantly in excess of the potential reduction from the loss of dairying, taking into account the need of future residents to drive to Rangiora, Kaiapoi, etc for services. Based on their assessments, Mr Willis maintained the view that the plan change would not contribute to a reduction in GHG emissions and would produce more than a similar, or denser development located closer to the district's main towns or within Christchurch.<sup>129</sup>

[211] We did not find 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 to be particularly helpful. Mr Akehurst, when answering questions from the panel also agreed that the comparison was not helpful and there were inadequate modelling tools available to

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125 Ibid [173]

126 Ibid [174].

127 Evidence in chief Mr Farrelly at [146]

128 Ibid [155]

129 Supplementary evidence Mr Willis at [28-30]

draw helpful conclusions. In short this was not a case about dairying v houses, rather we needed to consider whether the proposed plan change would support a reduction in greenhouse gas emissions.

[212] In closing legal submissions, Ms Appleyard noted that one of the requirements of a well-functioning urban environment under Policy 1 is that it is an environment that “support[s] reductions in greenhouse gas emissions” and therefore that RCP031 should contribute to that requirement. She argued that it is not a matter of demonstrating that RCP031 itself will reduce greenhouse gas emissions or will produce less greenhouse gas emissions than the existing land use. In order to contribute to that requirement, it must be demonstrated that the plan change facilitates future users of the site in reducing their greenhouse gas emissions.<sup>130</sup>

[213] Ms Appleyard submitted that simply because VKT in and of themselves may increase as a result of RCP031, this does not mean that RCP031 is not contributing to supporting reductions in greenhouse gas emissions. In reaching this view she noted that public transport requires a critical mass to establish, and that RCP031 will provide some of that mass in Ōhoka, such that future public transport to and from Ōhoka is likely to occur should this plan change proceed. She stated that this would contribute to reducing the greenhouse gas emissions of both residents from the plan change site and Ōhoka more generally.<sup>131</sup>

[214] We have concluded that the availability and timing of public transport alternatives is too uncertain to rely on to support a reduction in greenhouse gas emissions. Ms Appleyard’s argument undermines objective 3 and 8 of the NPS-UD. The benefits of enabling people to live and work in or near existing centres where public transport is accessible and active transport is practical are ways to support a reduction in greenhouse gas emissions. RCP031 does not give effect to either objective.

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130 Applicant’s closing legal submissions at [71-72]

131 Applicant’s closing legal submissions at [74]

### *Upgrades to the SH1 / Tram Road interchange*

[215] The applicant provided a narrow site-based evaluation of traffic effects of the initial s32 evaluation and notably did not mention the Tram Road SH 1 motorway interchange.<sup>132</sup> We consider this was a significant omission given the applicant's case was that RCP031 was intended to contribute to a well-functioning Greater Christchurch Urban Environment.

[216] In his roading safety evaluation, Mr Binder assessed crash safety risk and concluded that there are elevated traffic safety risks on the two primary corridors used to facilitate the bulk of the anticipated vehicular trips. He considered it inappropriate to site the proposed development so that it would substantially increase vehicular trips on these two corridors (Tram Road and Mill Road).<sup>133</sup>

[217] In relation to Tram Road, Mr Binder noted:<sup>134</sup>

Tram Road is considered one of the highest-risk roads in the District, due in part to the long straight stretches without interruptions, and relatively higher traffic volumes. The risk of crash increases through the peri-urban Mandeville area, with higher-frequency of side accesses and turning traffic. It is noted that CAS records between 2018 and 2022 show seven serious injury and one fatality crashes in the segment of Tram Road between McHughs Road/Bradly Road and the SH1 Motorway...

[218] Following receipt of the s42A Report the applicant's traffic engineer Mr Fuller undertook traffic modelling of the State Highway 1/Tram Road interchange and concluded that the modelling indicated that the interchange would require upgrading to accommodate the plan change traffic.<sup>135</sup> Mr Fuller's further modelling of the staging of the development indicated that 250 allotments could be readily accommodated within the existing interchange, but further development beyond that would either require *"further justification through further assessment, accounting for changes to the environment or travel patterns and further*

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132 Application, Appendix H Integrated Transport Assessment.

133 s42A Report at [6.8.15]

134 Evidence in chief Mr Binder; Appendix 7 to s42A Report at [34]

135 Evidence in chief Mr Fuller at [26]

*modelling or an upgrade undertaken to the interchange.*"<sup>136</sup> He considered there were a number of available solutions if an upgrade was required. Mr Fuller considered that any upgrades within the existing bridge width of the interchange could fully accommodate RCP031 traffic.

[219] Mr Metherell disagreed with the methodology employed by Mr Fuller when considering traffic growth and potential. He explained that Mr Fuller's further analysis of the Tram Road interchange (with consideration of traffic growth from the west based on his assessment of growth potential) made some allowance for background traffic growth that would potentially represent less than 10 years of growth. In his view, consideration of a longer period would be desirable as 2028 would likely be the timeframe for initial development from the Plan Change site.<sup>137</sup>

[220] Mr Metherell also commented on the proposed layout of the interchange based on discussions with Waka Kotahi's transport planner, Haroun Turay. Mr Metherell reported that the current performance of the interchange is generating queues back across the northbound off ramp, and that Waka Kotahi are currently looking at a traffic signals option for the off-ramp intersection with Tram Road.<sup>138</sup> Mr Metherell's understanding was that there is currently no plan to provide an additional traffic lane eastbound, reflecting a general policy response to travel demand management and managing the availability of spare traffic carrying capacity. He commented that additional spare capacity can lead to downstream effects and that Waka Kotahi have indicated their preference is to manage demand for travel on the motorway and seek solutions that are supportive of that preference such as mode shift and higher occupancy use of vehicles.<sup>139</sup>

[221] Mr Metherell stated that in his view the only feasible solution presented by Mr Fuller is bridge widening, which by its nature is a large project. He understood this would be a last resort outcome from Waka Kotahi and considered the analysis by Mr Fuller had not made it

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136 Ibid [30]

137 Supplementary evidence Mr Metherell at [16-17]

138 Ibid [19]

139 Supplementary evidence Mr Metherell at [20]

clear if capacity-based changes were necessary without the growth on Tram Road as a result of the Plan Change.<sup>140</sup>

[222] Although we did not hear directly from Waka Kotahi, ultimately, it's a matter for them as the relevant roading authority as to the type and timing of any upgrades. For our purposes there is no certainty that the solutions proposed by Mr Fuller would be actioned by Waka Kotahi and there is a high likelihood that the development would be stalled at 250 residential allotments in the medium term.

[223] We note Mr Walsh's evidence in support of this proposed threshold rule<sup>141</sup>, and his supplementary evidence where he recommends that the rule require limited notification to Waka Kotahi absent its written approval, given their jurisdiction over this interchange.<sup>142</sup>

[224] Despite the potential impediment to the realisation of the development within the medium-term, Mr Walsh did not seek the views of Waka Kotahi on the likelihood or timing of such works. He noted that Waka Kotahi did not appear at the hearing and he 'assumed that they would not be concerned with this matter'.<sup>143</sup>

### *Discussion*

[225] Objective 3 of the NPS-UD seeks to 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

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140 Ibid at [21]

141 Evidence in chief Mr Walsh at [165-167]

142 Supplementary evidence Mr Walsh at [20]

143 Ibid at [34]

- (c) there is high demand for housing or for business in the area relative to other areas within the urban environment.<sup>144</sup>

[226] RCP031 is not sufficiently near a centre or other area with many employment opportunities and requires private motor vehicle use to access the closest centres.<sup>145</sup> We agree with Mr Willis that the applicant has not been able to demonstrate that the RCP031 site has good accessibility or is well serviced by existing or planned public transport for residents to access jobs and community services.

[227] We are not persuaded by Mr Walsh's evidence where he stated that if RCP031 were to be approved, it is likely that an attempt would be made to service it with public transport of some type at some point in the future. While we acknowledge that provision of public transport to the site may be more likely in the longer term in conjunction with general public transport service improvements in the district as indicated by the Council's "Waimakariri Integrated Transport Strategy", this does not alter the fact that at present, the site is not well serviced by existing or planned public transport for residents to access jobs and community services.

[228] One of the requirements of a well-functioning urban environment under Policy 1 of the NPS-UD is that it is an environment that "support[s] reductions in greenhouse gas emissions" and therefore that RCP031 should therefore contribute to that requirement. We accept that, to contribute to that requirement, the applicant must demonstrate that the plan change supports occupants of the site in reducing their greenhouse gas emissions.

[229] Having considered the evidence on VKT and GHG emissions, we are not persuaded by the applicant's case that the loss of dairying from the site supports reductions in greenhouse gas emissions from the RCP031 site. We have already found that a direct comparison between GHG emissions from the development and use of residential and business land proposed by RCP031 and the removal of dairying from 156ha of rural land is

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<sup>144</sup> We have addressed the evidence of Mr Jones regarding demand for housing on the area at [104]. There was no evidence of market demand for business in this area, aside for the assessment if retail distribution effects. We discuss submitters evidence of their shopping habits at [204].

<sup>145</sup> As discussed at [203].

not helpful given the lack of comparative modelling tools. We have considered the likelihood of future residents to drive to Rangiora, Kaiapoi, etc for services without accessibility of public transport alternatives and we have found RCP031 does not facilitate future users of the site in reducing their greenhouse gas emissions. The provision of charging facilities for electric vehicles is a positive step, but the actual impact on the reduction of GHG emissions has not been quantified.

[230] The introduction of threshold rules during the hearing to address intersection safety and improvements has resulted in reduced certainty of the applicant being able to achieve proposed development capacity of 850 households, and the timing of section delivery. We heard evidence that suggests there is a real possibility that development may be stalled for an unknown length of time at 250 dwellings, resulting in a reduction of the proposed development potential by approximately two-thirds.

[231] We also heard evidence that the proposed improvements to the SH1 / Tram Road interchange is reliant on a third party, Waka Kotahi, and that their preference is to manage demand for travel on the motorway and seek solutions that are supportive of that preference such as mode shift and higher occupancy use of vehicles. Although Waka Kotahi did not attend the hearing and present any further evidence on this issue, the issues raised by other submitters during the hearing are consistent with the agency's written submission as well as their reasons for opposing the proposal.

[232] Having considered the evidence and submissions, we consider the introduction of threshold rules to manage transportation effects seriously constrains the applicant's ability to realise significant development capacity.

### *Findings*

[233] We find that the plan change does not contribute to the requirement under Objective 8 and Policy 1 of the NPS-UD regarding reductions in greenhouse gas emissions. The applicant has not sufficiently demonstrated the plan change facilitates future users of the site in reducing their greenhouse gas emissions.

[234] We find that the plan change does not have good accessibility and cannot demonstrate it is well serviced by existing or planned public transport for residents to access jobs and community services. The proposal therefore does not achieve the accessibility requirements set out in the NPS-UD (Objective 3(b) and Policy 1(c)) and therefore does not contribute to a well-functioning urban environment as required by NPS-UD Objective 1 and Policy 8.

## **Character, Amenity and Landscape**

### *Issues*

[235] As noted by Mr Willis in his s42A report this topic “*received the most comments from submitters*”. Submitters expressed concerns that the proposal is not in keeping with the existing Ōhoka character and will ruin its quiet lifestyle / semi-rural nature / rural outlook, its historic rural village character / atmosphere / fabric, its peace and tranquillity, charm and close community spirit”.<sup>146</sup>

[236] Key issues discussed at the hearing included the nature of the existing environment of Ōhoka and what constitutes ‘rural village character’; the existing open character environment of the RCP031 site and what represents an acceptable or unacceptable level of change in rural amenity for the Ōhoka community, and whether the proposal does or does not represent compact or consolidated urban form. A key consideration for us was the level of change already anticipated by both the WDC and proposed plan in terms of rural lifestyle development outcomes and how this compares with the level of change proposed.

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146 s42A Report at [6.9.2]



## *Submissions and Evidence*

### *Rural Village Character*

[237] We heard from Mr Carter, director of the applicant. Mr Carter is also a resident of Ōhoka. When describing the background to and rational for the proposal he observed that there is currently “*a serious lack of amenities*” in Ōhoka with only “*a garage and irrigation supplier*”.<sup>147</sup> In his verbal presentation to us he shared a view that Ōhoka is not a village, but rather a skeleton of a village. If RCP031 did not go ahead, in his view it would be a missed opportunity.

[238] We heard from many submitters during the hearing who shared their experiences of living in Ōhoka and the attributes that in their views contribute positively to rural village character.<sup>148</sup> Consistent themes included the unique and quaint ‘feel’ of Ōhoka village, the undeveloped nature of the village and the associated lack of shops and centralised amenities, the heritage character in the village, the rural village aesthetic, low population, and the ‘heart’ of the Ōhoka village being its community. Submitters expressed consistent concern that the proposal would significantly and negatively impact the existing village character.

[239] Mr Falconer, urban design and landscape expert for the applicant, stated that concerns expressed about the scale of the proposal being too large and going against the village character can be successfully addressed by the carefully composed and comprehensive design features of the proposal.<sup>149</sup> In his view, the proposal will both maintain and enhance the current Ōhoka village character.<sup>150</sup>

[240] Mr Falconer considered that from an urban design perspective, density and lot size alone do not determine rural village character, rather the assessment is necessarily broader

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147 Evidence Mr Carter at [15]

148 For example oral submissions provided by J Hadfield [#260], D&M Ayers [#425], Oxford/Ōhoka Community Board [#370], S Wells [#562], M Sparrow [#107], M & M Leggett [#233], A Arps [#205], P&M Driver [#135], A Low [#416], G Edge [#606]

149 Supplementary evidence Mr Falconer 3 at [10]

150 Ibid at [14]

and contextual. Further, he stated that the proposal incorporates comprehensive landscape treatments to address the interface of the site with the surrounding area, consistent with the landscape treatment of existing residential activity. In his view, this is an important contributing factor to maintaining the current character of Ōhoka.<sup>151</sup>

[241] Ms Lauenstein, urban design expert for the applicant, was of the view that the village character of Ōhoka is reflected in the spatial layout of the proposal, in the design of streets and public spaces, in the edge treatment of the perimeter roads, in the placement of the commercial centre, in the landscape treatment of the waterway margins, and in the location and design of the village gateway/thresholds.<sup>152</sup> At the hearing she maintained her view that the proposal would result in an appropriate development outcome in terms of character and form in the proposed location.<sup>153</sup>

[242] Mr Compton-Moen, urban design and landscape design expert for the applicant, considered that the proposal is a natural extension of Ōhoka, which will consolidate Ōhoka as a rural settlement with its village character retained.<sup>154</sup> While he acknowledged that the existing character on the site will change to one which is more compartmentalised, he considered that the proposal will create a high-quality, high-amenity development which builds on the rural village character of Ōhoka and consolidates the local centre form.<sup>155</sup> In his overall view, any effects on landscape character and amenity effects on existing and future residents can be successfully addressed through the proposed mitigation measures.<sup>156</sup>

[243] Mr Milne, landscape design expert for the applicant, stated in relation to the retention of character that *“PC31 does not intend to retain rural character within the PC31 site boundaries. The intention of PC31 is to undertake a rezoning which will allow for development consistent with that of a Residential Zone, in an appropriate location that responds to the*

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151 Ibid at [15]

152 Supplementary evidence Ms Lauenstein at [9]

153 Ibid at [17]

154 Supplementary evidence Mr Compton-Moen at [5]

155 Ibid at [7.2]

156 Ibid at [6]

*surrounding Ōhoka setting*".<sup>157</sup> He said "while PC31 undeniably represents residential growth, it is my opinion that the density still represents that of a village scale (noting that, for example, Oxford is significantly more urbanised than the PC31 proposal, yet is still identified as a Village)".<sup>158</sup>

[244] Mr Nicholson, urban design and landscape expert who provided evidence as part of the s42A Report, stated in his written evidence that the character of a village with 300 residents is inherently different from the character of a town with 2,500 residents. He considered the proposal would fail to 'maintain' or 'retain' the rural village character of Ōhoka, citing the increased size and population of the settlement, the increased 'suburban' densities, and the potential scale of the retirement home / educational facility.<sup>159</sup>

[245] Mr Nicholson said he agreed with Mr Falconer (for the applicant) that 'a' village character like Lincoln or Matakana could be created if RCP031 was approved but noted that the policy directions in the WDP and the Waimakariri 2048 District Development Strategy both seek to maintain or retain the 'existing' character of Ōhoka.<sup>160</sup> He continued by stating that:

While I agree that the design team could create an attractive 'village' character, I do not accept Mr Falconer's view that the existing rural village character of Ōhoka can be retained through carefully considered design. I note that Policy 18.1.1.9 in the OWDP seeks to maintain a predominantly low density living environment with dwellings in generous settings, and the explanation identifies that generous settings comprise an average lot size of between 5,000 and 10,000m<sup>2</sup>.<sup>161</sup>

[246] Mr Nicholson further observed that the proposed lot sizes of 600-1,000m<sup>2</sup> for sections in the Living 2 Zone would be significantly smaller than the sections along the opposite side of Mill Road which range from 1,000 -7,500m<sup>2</sup> with an average size of approximately 3,000m<sup>2</sup>, and approximately 10 times smaller than sections in the more recent residential developments

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157 Supplementary evidence Mr Milne at [13]

158 Ibid at [14]

159 Evidence in chief Mr Nicholson at [9.3 & 9.6]

160 Supplementary evidence Mr Nicholson at [5.3]

161 Ibid at [5.4]

on Keetly Place and Wilson Drive. In his view, while good design can ensure that smaller sections are attractive and livable, he did not consider that it can 'retain' the character of sections that are generally more than twice the size.<sup>162</sup>

[247] Mr Knott, urban design expert for the Council (as submitter), considered that RCP031 would not reflect the existing rural village character of Ōhoka. He stated that the screening of all new development (apart from the commercial centre) from the existing roads limits physical connections to the surrounding area and provides the impression that the RCP031 area is inward looking and not associated with its surroundings. In his overall view, RCP031 is not a natural extension to Ōhoka, rather it is essentially a new town within a rural area.<sup>163</sup>

[248] On the issue of rural village character Mr Willis, Mr Boyes, and Mr Walsh were in agreement that the key provision of the WDP is Policy 18.1.1.9, specific to growth at Ōhoka.

[249] Mr Willis in his s42A report, based on the evidence provided by Mr Nicholson, concluded that the RCP031 will not maintain a rural village character comprising a predominantly low-density living environment with dwellings in generous settings. He said that:

<sup>164</sup>

while the proposal has attempted to sleeve the higher density Residential 3 component, the urban density component remains the predominant development type. Overall, the proposal will result in a town approximately seven times bigger (at the RCP031 proposed densities) and with significant commercial areas and potentially a retirement village and school. I consider that the proposal is not in accordance with Policy 18.1.1.9 and its explanation.

[250] In his supplementary evidence, Mr Willis' opinion was:<sup>165</sup>

a helpful starting point for this assessment is the status quo and the anticipated characteristics that Policy 18.1.1.9 and its explanation describe... In my opinion this

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162 Supplementary evidence Mr Nicholson at [5.6 & 5.7]

163 Supplementary evidence Mr Knott at [7]

164 s42A Report at [7.3.144]

165 Supplementary evidence Mr Willis at [36]

description describes the anticipated characteristics of an expanded Ōhoka village and what 'village' means for this discussion.

[251] Mr Willis commented that:<sup>166</sup>

based on Mr Nicholson's and my assessment of the submitters concerns presented at the hearing, I remain of the opinion that Ōhoka will no longer be a small, low key, quiet, 'ride your horses down the main street' rural village when it is transformed into a town bigger than Oxford as a result of this proposal. The proposal does not maintain the rural village character comprising a predominantly low-density living environment with dwellings in generous settings required by Waimakariri District Plan (WDP) Policy 18.1.1.9.

[252] Mr Willis said this policy did not envisage urban density development of the type proposed as it specifically states in the explanation that any further rural residential development (i.e. not Residential 2 development) occurs in a way, and to an extent, that does not overwhelm the special semi-rural character of the settlement and refers to generous dwelling settings comprising an average lot size of between 0.5 – 1.0 hectare (he noted this reference is proposed to be changed by RCP031). It also refers to consolidating growth around or adjacent to the existing urban area. The plan change proposal, with its Residential 2 density lots, two commercial areas, potentially a second primary school and a retirement village, stretching southwards almost as far as Mandeville clearly does not achieve and is not consistent with the anticipated characteristics or resulting character described in the policy and explanation.<sup>167</sup>

[253] We heard from Mr Boyes, planner for the Council (as submitter), that in his view the proposal does not satisfy the development aspirations of Policy 18.1.1.9 which requires that future residential development urban growth promoted by RCP031 maintains its rural character and ensures that development complements the existing low density rural residential environment.

[254] The applicant's assessment of relevant plan provisions in the application acknowledges the sensitivity of the local environment to urban growth and notes that the

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166 Supplementary evidence Mr Willis at [33]

167 Ibid at [34]

development enabled by the proposal will be highly planned and curated to ensure high amenity outcomes appropriate for the setting.<sup>168</sup> The assessment further states that the plan change proposal has been carefully developed to achieve the amenity and environmental expectations which are set out at Policy 18.1.1.9.<sup>169</sup> Mr Walsh's opinion was Policy 18.1.1.9 in the WDP contemplates growth of the Ōhoka settlement and that the proposal is consistent with this policy.<sup>170</sup>

[255] As discussed at [150-173] expert conferencing on stormwater servicing provision identified the possibility that 26ha of the plan change site along Whites Road is unable to be attenuated and therefore potentially precluded from development. The JWS also indicated that alternatives to swales such as kerb and channelling may be required.<sup>171</sup> Mr Willis considered that the use of alternatives to swales would not be consistent with the Applicant's stated design approach to maintain rural village character, which is a key development outcome and one that has been contested through the hearing process by numerous submitters.<sup>172</sup>

[256] We asked the applicant to consider any urban design consequences if the 26ha area was unable to be developed, and the urban design impacts of kerb and channel in the context of Ōhoka Village character. In response for the applicant, Mr Falconer advised that if development was prevented within the 26ha area the integrity of the proposed development would be resilient to such a change and the conclusions on urban design matters contained in his evidence in chief would remain the same.<sup>173</sup> He noted the following specific impacts if development within the area was precluded:

- (a) a parallel shifting of the subdivision layout to the west towards Bradleys Road; and

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168 Novo Group Plan Change Request June 2022 at [p32]

169 Ibid at [p30]

170 Supplementary evidence Mr Walsh at [39]

171 JWS Groundwater and surface water issues and implications for stormwater management

172 Supplementary evidence Mr Willis at [22]

173 Supplementary evidence Mr Falconer at [7]

- (b) consequential loss of residential lots and along Whites Road would either be a broad reserve section (if no development could occur) or larger lots (if limited development could occur); and
- (c) Maintained connectivity to Whites Road via roading and pedestrian/cycleway connections; and
- (d) Commercial areas opposite the Domain on Whites Road would be shifted away from Whites Road and that land could be utilised for reserve, parking, or an extension to the market.<sup>174</sup>

[257] Regarding the use of alternatives to swales, Mr Falconer noted that further detailed assessment would be required before it can be determined the locations of where kerb and channels would be required (as opposed to swales) and that the final detailed design of the plan change may well include a combination of both swales and kerb and channels.<sup>175</sup> He considered that depending on detailing the edge to the carriageway and the devices controlling the runoff, there could be a mix of both hard and soft edging, of catch pits and rain gardens/soak pits for the kerb and channel design.<sup>176</sup>

[258] Mr Falconer's opinion was that ideally, a soft edge (which would be the case with swales) provides more of a 'rural' feel, though it is possible that kerb and channel design can be detailed to be recessive and result in a minor impact on the sense of a 'village character'. To illustrate this point, he included a photograph from a new subdivision in the Cardrona Village which showed a combination of a swale and a vertical upstand kerb. Overall, the potential requirement for kerb and channel infrastructure did not change the conclusions contained in his evidence in chief regarding village character.<sup>177</sup>

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174 Supplementary evidence Mf Falconer at [6 & 7]

175 Ibid at [9]

176 Ibid at [10].

177 Ibid at [11] and Figure 1 in that evidence.

[259] In response to Council and submitter concerns about the smaller commercial area proposed along Mill Road, Mr Falconer commented that if it was to be removed from the plan change and replaced with residential zoning there would be relatively little loss to the proposed development from an urban design perspective. He advised that the conclusions set out in his evidence in chief would remain unchanged.<sup>178</sup>

#### *Open Character Landscape / Rural Amenity*

[260] We heard from many submitters, particularly those who live in residential properties closest to the proposal on Bradley's Road, Mills Road, and Whites Road, who expressed concerns about the potential effects of the proposal on visual and rural amenity and open landscape character of the area.<sup>179</sup> A consistent theme was that the proposed mitigations would not reduce the visual and amenity impact of the proposal.

[261] Amanda Low talked to us about her family's opposition to the proposal.<sup>180</sup> The Low family reside in an historic Vicarage. She provided a photograph to illustrate the direct view of the site (that area of the proposal comprising the commercial area) from several vantage points within her home. She challenged the applicant's appraisal of visual amenity and pointed out that Mr Compton-Moen's assessment did not appear to consider the impact of the proposal on the cluster of houses along Mill Road.

[262] Ms Scully for submitter J Hatfield argued that the landscape and visual effects of RCP031 would be detrimental to the rural environment Mrs Hatfield currently enjoys at her Mills Road property.<sup>181</sup> Further, Ms Scully submitted that the considerable difference in outlook from Mrs Hatfield's home currently, to what it would look like if RCP031 were to be approved, does not equate to a rural character as proposed in the proposed plan.<sup>182</sup>

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178 Supplementary evidence Mr Falconer at [15-18]

179 For example, oral presentations by M Leggett [#233, A Low [#416], J Hatfield [#260]

180 Low family submissions [#377, #411, #416, #452]

181 Legal submissions for Janet Hatfield at [43]

182 Ibid at [48]



[263] Submitters also highlighted the legalities of proposed mitigation located on private property.<sup>183</sup> We heard from Philip Driver He explained to us that the applicant's proposal encroaches the boundary of their Bradleys Road property, and that they have not been directly consulted by the applicant to discuss this issue.

[264] We also heard from some submitters<sup>184</sup> regarding the potential lack of future maintenance of the proposed landscape treatments as shown on the ODP, including that some species promoted in the evidence of Mr Compton-Moen would not establish easily on the site given the local conditions.

[265] Mr Edge (local resident, practicing landscape architect, and elected member of the Canterbury Regional Council) spoke to us about his involvement in the development of a 2004 report entitled '*The Ōhoka Landscape Assessment for Waimakariri District Council and the Ōhoka Community Trust*'. Mr Edge confirmed to us that he was submitting in a personal capacity rather than as an expert witness. He delivered power point presentation along with a commentary about the key landscape assessment findings contained in the 2004 report relating to landscape elements, landscape character areas, and community views and concerns at that time. Overall, he considered that *"the landuse activity and housing typology proposed in the application will have significant effect on the wellbeing of the community and its impact on the existing landscape will be negatively transformative of its rural and heritage characteristics"*<sup>185</sup>.

[266] Mr Milne, landscape design expert for the applicant considered the key landscape issue of the proposed rezoning related to potential effects on the amenity of the surrounding environment.<sup>186</sup> He emphasised that RCP031 does not intend to retain rural character within the 1 site boundaries and that the intention is to undertake a rezoning which will allow for

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183 For example, P Driver [#135]

184 For example B&B Chambers [#262], CE Doherty [#283].

185 Evidence statement Mr Edge at [9.4]

186 Supplementary evidence Mr Milne at [4]

development consistent with that of a Residential Zone, in an appropriate location that responds to the surrounding Ōhoka setting.<sup>187</sup>

[267] Mr Milne stated that RCP031 will provide for future development that is appropriate and will not result in significant adverse landscape or visual amenity effects that cannot be either avoided or mitigated.<sup>188</sup> He considered that the proposed landscape treatment around the perimeter of the site (Landscape Treatments A, B, and C) to be an appropriate response to assist with integration of the RCP031 area.<sup>189</sup> In his view the alterations to landscape character are acceptable in the context of the wider existing development pattern due to the existing level of fragmentation that has already occurred through rural residential scale development, along with the positive effects associated with the increase in local amenity and convenience that will complement the existing Ōhoka Village.<sup>190</sup>

[268] Mr Milne noted the anticipated reduction in open rural character that is provided for by both the WDP and the proposed plan rezoning to Rural Lifestyle Zone.<sup>191</sup> He promoted the comparison as a useful analysis tool to demonstrate that the loss of open rural views is a possible development outcome under the WDP and proposed plan or the RCP031 development. On this basis, Mr Milne opined that restriction of views across the site is not a key factor in determining potential adverse landscape and visual amenity effects.<sup>192</sup>

[269] Mr Compton-Moen was of the view that any effects on landscape character and amenity effects on existing and future residents can be successfully addressed through the proposed mitigation measures. He stated that the proposed Landscape Treatments and building setbacks (20m) on Whites and Bradleys Road are consistent with the wider receiving environment, also complementing and contributing to the existing settlement form.<sup>193</sup>

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187 Ibid at [13]

188 Supplementary evidence Mr Milne at [20]

189 Ibid at [6&7]

190 Ibid at [5]

191 Ibid at [5]

192 Ibid at [10]

193 Supplementary evidence Mr Compton-Moen at [6&7]

[270] In response to submitter concerns about the potential lack of future maintenance of the proposed landscape treatment areas, Mr Compton-Moen acknowledged that poor maintenance can result in unacceptable landscape outcomes. He confirmed that a five-year maintenance period for planting has been incorporated into the ODP, noting that this is longer than the typical 2-year (48-month) maintenance period usually specified. He considered this amendment would be more than enough to ensure successful establishment of landscape areas.<sup>194</sup>

[271] In response to submitter concerns about the types of tree species proposed in the landscape treatments, Mr Compton-Moen explained that the species outlined in his evidence are commonly found in the Ōhoka District, were selected for their known ability to establish easily on the site, and that they are readily available from local nurseries in the large numbers that would be required. To ensure greater flexibility for Landscape Treatment C, Mr Compton-Moen recommended an additional five species.<sup>195</sup> Mr Compton-Moen explained that the exact breakdown and composition of the planting of Landscape Treatments A, B, and C would be submitted to council for approval during the subdivision stage, and that the same would apply for reserves and riparian margins developed as part of the green/blue network within the plan change site.<sup>196</sup>

[272] Mr Compton-Moen further considered that a detailed landscape management plan is required, preferably prepared by a Registered Landscape Architect. He explained that landscape management plans are not uncommon with proposed plan changes such as this, being submitted at Engineering Approval Stage. A management plan would provide direction on the establishment of planting, weed and pest control, replacement planting, irrigation and the like. In my opinion, a requirement for planting within the landscape areas to achieve an 80% canopy cover within the five-year timeframe would also be appropriate.<sup>197</sup>

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194 Supplementary evidence Mr Compton-Moen at [5]  
195 Ibid at [6]  
196 Ibid at [7]  
197 Ibid at [8]

[273] Mr Goodfellow, landscape architect for the Council (as submitter), remained of the view that the proposal is not consistent with the Ōhoka settlement pattern. In his view the proposal will (even with the proposed landscape treatments in place) have an adverse effect on the character of Ōhoka in the moderate-high range. On this basis, Mr Goodfellow concludes that the proposal will not maintain but instead significantly reduce the existing rural character of Ōhoka.<sup>198</sup> When asked about what level of change would be acceptable, he considered that about half of the proposed area would be acceptable from a landscape and rural character perspective.

[274] Mr Nicholson, remained of the view that with regard to existing site conditions and characteristics, RCP031 would have a moderate-high impact on landscape character and a moderate-high visual impact.<sup>199</sup>

[275] Regarding the anticipated reduction in open rural character that is provided for by both the WDP and proposed plan's rezoning to Rural Lifestyle Zone, Mr Nicholson agreed that this would affect the degree of landscape change and associated visual impact. If the site was developed into 4ha lots, the impact of RCP031 on the landscape character would moderate and the visual impact would be moderate along Whites and Mills Roads. However, he considered the visual impact along Whites Road would remain as moderate high.<sup>200</sup>

[276] Mr Nicholson noted that Policy 6 of the NPS-UD specifically directs that changes to amenity values such as landscape character and visual amenity need to be balanced against the positive effects of increased housing supply and choice, and are not of themselves, an adverse effect.<sup>201</sup>

[277] Mr Willis in his s42A report stated that landscape and visual character is a matter that is going to change when a site is rezoned from a rural to an urban zone. While it can be mitigated, such as through the measures proposed in RCP031's supporting material and ODP,

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198 Supplementary evidence Mr Goodfellow at [3 & 4]

199 Supplementary evidence Mr Nicholson at [11]

200 Ibid at [11]

201 Ibid at [11.5]

it is not possible to completely maintain rural landscape features and vistas in an urban setting.<sup>202</sup>

[278] Mr Willis notes that adverse character, landscape and visual effects are a consequence of accommodating urban growth and the Council has to provide for urban growth under the NPS-UD and CRPS. The key matter for consideration is whether these adverse effects in this location are more significant or contrary to planning provisions than might occur in another rural area that is also proposed to be rezoned to urban.<sup>203</sup>

[279] Mr Walsh considered the proposal is acceptable in terms of landscape change and visual amenity impacts of the proposal that provide mitigation of potential adverse visual effects.<sup>204</sup>

[280] Policy 14.1.1.4 was not addressed in the application or in Mr Walsh's evidence. Mr Boyes, planner for the Council (as submitter) sets out that Policy 14.1.1.4 is to "Maintain rural character as the setting for Residential 4A and 4B Zones". He notes that the ODP explanation refers to an outlook dominated by paddocks, trees, natural features, and agricultural, pastoral or horticultural activities. In his view that scale of resulting built form will not maintain a rural character setting for those residents in the existing Residential 4A and 4B zones to the north of the RCP031 site.<sup>205</sup>

[281] In response, Mr Walsh considered that the outlook for residents within the Residential 4A and 4B zones at Ōhoka will be unchanged by the proposal. He stated that views of the site from properties within these zones are obscured by existing mature trees/vegetation and development/activities within the Residential 3 zone.<sup>206</sup>

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202 s42A Report at [6.9.13]

203 S42A Report at [6.9.13]

204 Evidence in chief Mr Walsh at [196]

205 Evidence in chief Mr Boyes at [37 & 38]

206 Supplementary evidence Mr Walsh at [41]

## *Urban Form*

[282] Mr Compton-Moen considered that the proposal is a natural extension of Ōhoka, which will consolidate Ōhoka as a rural settlement with its village character retained.<sup>207</sup> In his view the proposal does not create a new town, but rather consolidates the existing settlement.<sup>208</sup>

[283] Ms Lauenstein considered that the proposal completes and consolidates the urban form of Ōhoka. In her view the proposal better defines the different elements that contribute to the urban form by providing legible thresholds between the outer areas and the core and it strengthens the centric form by strengthening the commercial and communal centre on Whites Road.<sup>209</sup>

[284] Mr Nicholson promoted two variables as good indicators of the degree of compactness and consolidation of a development, including walkability buffers and the proportion of a site boundary adjoining an existing settlement.<sup>210</sup>

[285] With regard to walkability buffers, Mr Nicholson is of the view that an area within an 800m walkable buffer is more compact. He further observed that less than half of the RCP031 site sits within an 800m walkable buffer.<sup>211</sup> Mr Falconer disagreed with Mr Nicholson's analysis on the basis that it fails to acknowledge or recognise that the majority of the smaller lots within the development are well within such a circle and are well connected in contrast to many existing lots within Ōhoka which are very poorly connected and have little in the way of a multi modal network.<sup>212</sup>

[286] With regard to the proportion of a site boundary that adjoins an existing settlement, Mr Nicholson provided a series of diagrammatic settlement patterns to illustrate various edge

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207 Supplementary evidence Mr Compton-Moen at [5]

208 Ibid at [8.5]

209 Evidence in chief Ms Lauenstein at [16]

210 Supplementary evidence Mr Nicholson at [9]

211 Ibid at [9.5]

212 Supplementary evidence Mr Falconer at [19-20]

connections and the extent to which an area could contribute to a compact and consolidated settlement. He noted that the site has approximately 17% of its boundary connected to the existing Ōhoka settlement and opined that this does not contribute to a compact and consolidated urban form for Ōhoka. He agreed with Mr Knott that RCP031 could be more appropriately described as a new town within the rural area.<sup>213</sup>

[287] Mr Falconer disagreed with Mr Nicholson's use of abstract block diagrams to demonstrate his concerns about the proportion of boundary interface as a measure of compactness and consolidation and considered the reliance on these measures to be blunt and inadequate to assess the spatial efficiency of an urban form which responds in sum to various elements that make up a place such as landform, waterways, vegetation, heritage and land uses.<sup>214</sup>

[288] Mr Nicholson stated that RCP031 would largely infill the rural land between Ōhoka and Mandeville giving rise to a sprawling low-density residential conurbation with a combined population in the order of 3,850 people.<sup>215</sup>

[289] Mr Falconer disagreed with Mr Nicholson's view based on the reasons that Mandeville North is over 4.2km distant from the site and is already largely developed based on lifestyle and large lot blocks. He considered that the Mandeville North settlement is quite unlike the RCP031 proposal, which seeks to provide greater housing options, more efficient land use, and commercial local job opportunities.<sup>216</sup> Mr Milne also disagreed, stating that RCP031 presents a development form quite different to Mandeville and it will be contained by the proposed landscape edge treatment to the RCP031 boundaries.<sup>217</sup>

[290] Mr Nicholson's opinion was that RCP031 will have a more suburban character and that there will be a delineated 10m wide landscaped strip around the southern boundary of the

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213 Supplementary evidence Mr Nicholson at [9.7-9.10]

214 Supplementary evidence Mr Falconer at [21-23]

215 Evidence in chief Mr Nicholson at [10.3]

216 Evidence in chief Mr Falconer at [49-51]

217 Evidence in chief Mr Milne at [47]

site. However, he remained of the view that RCP031 would extend to within 300m of the Modena Place subdivision in Mandeville. The two subdivisions would be separated by between two and four 4ha blocks with little in the way of open rural character to distinguish the communities.<sup>218</sup> Mr Nicholson provided an aerial image to demonstrate the 300m separation between the RCP031 site and the Modena Place subdivision in Mandeville.

[291] Mr Willis in his s42A report noted that RCP031 will essentially stretch southwards to join up with Mandeville, undermining the existing separate identities of both areas.<sup>219</sup>

[292] Mr Boyes observed that the scale and extent of residential development proposed by RCP031 appears at odds with the current policy framework or what is intended by way of the higher order documents, which all seek to promote a centres-based approach. RCP031 takes the existing rural settlement of Ōhoka and extends it southwest towards Mandeville. The majority of land between the southern extent of the RCP031 area and the Mandeville residential zoned land is already developed to a density of 1 to 2ha allotments. In his view this would create a scenario whereby the two settlements will effectively appear as one with little in the way of open rural character to differentiate between the communities.<sup>220</sup>

[293] Mr Walsh did not specifically assess this issue, other than to point out Mr Falconer's and Mr Compton-Moen's disagreement.<sup>221</sup>

[294] Mr Willis commented in his supplementary evidence that he had reviewed Mr Walsh's clarification of how the proposed urban design approach will work. He found Mr Walsh's summary statement (paragraphs 13 to 17) to be very helpful. Mr Willis had reviewed the Jacks Point Residential Design Guidelines 2019 and agreed that these would work as they are sufficiently certain to be administered in a planning framework. However, he noted that the

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218 Supplementary evidence Mr Nicholson at [10.2]

219 s42A Report at [6.9.9]

220 Evidence in chief Mr Boyes at [78]

221 Evidence in chief Mr Walsh at [193]



guidelines are not yet written by the Applicant so he was not certain that the approach will work for Ōhoka and deliver outcomes that help to maintain the village.<sup>222</sup>

### *Discussion*

[295] We heard compelling evidence from numerous submitters about their experiences of living in Ōhoka and the attributes contributing positively to rural village character. We visited the area on two occasions during the hearing process and what we saw and experienced was consistent with submitter accounts of the nature and features of the area and surrounding environment. We also acknowledge the many and varied community interactions and activities that contribute to local residents' sense of belonging in a rural community such as Ōhoka.

[296] We agree that the existing environment of Ōhoka constitutes 'rural village character'. We were surprised by the lack of engagement between the applicant and the community and consider this was a missed opportunity to address specific concerns, particularly where a number of submitters' properties were either included in the plan change area or sat immediately adjacent to the proposed commercial areas.

[297] There appears to be overall agreement across urban design and landscape experts that the ODP masterplan and subsequent amendments made by the applicant throughout the hearing process will ensure a quality urban design outcome - in and of itself - and internally within the plan change area. We accept the applicant's view that the ODP provides a high degree of certainty that the outcomes of the indicative masterplan will be realised and that the fine-grained detail in respect of design matters will be addressed and managed via the yet to be developed design guidelines.

[298] The key area of disagreement between the relevant experts is focussed on the proposed location of RCP031 in the surrounding Ōhoka setting and the resultant impacts on rural village character. We do not accept the applicant's position that the proposed densities

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222 Supplementary evidence Mr Willis at [37]

represent that of a village scale when considered in the context of the existing rural village character of Ōhoka. Having carefully considered the evidence, we prefer the evidence of the s42A authors that the proposal would fail to ‘maintain’ the rural village character of Ōhoka due to the significant increase to the size and population of the settlement, and the increased ‘suburban’ densities. It is clear to us that the proposal is the antithesis of what is expected via Policy 18.1.1.9 which seeks to maintain a predominantly low-density living environment with dwellings in generous settings.

[299] We acknowledge the concerns of many submitters about the potential effects of the proposal on visual and rural amenity and open landscape character of the area, and that the proposed mitigations would not reduce the visual and amenity impact of the proposal. In considering this matter, we have had particular regard to Policy 6 of the NPS-UD which specifically acknowledges that in giving effect to the NPS-UD changes to amenity values such as landscape character and visual amenity need to be balanced against the positive effects of increased housing supply and choice, and are not of themselves, an adverse effect. We found Mr Willis’ guidance on this matter helpful when he stated that the key matter for our consideration is whether any adverse effects in this location are more significant or contrary to planning provisions than might occur in another rural area that is also proposed to be rezoned to urban.

[300] We are not persuaded by the applicant’s experts’ views that from an urban design perspective the proposal is a natural extension of Ōhoka which will complete and consolidate Ōhoka as a rural settlement with its village character retained. We prefer the expert evidence of Mr Nicholson and Mr Knott that the full extent of RCP031 does not contribute to a consolidated urban form for Ōhoka. We accept their views that RCP031 is more appropriately described as a new town within the rural area. In reaching this view, we note our concerns on the proposed scale and extent of residential development extending towards Mandeville.

[301] Relevant technical and evaluative experts (who contributed to the s42A report and appeared for the Council (as submitter) were unanimous in their view that RCP031 takes the existing rural settlement of Ōhoka and extends it south towards Mandeville. It was clear to us during our site visit that the proposal, at its fullest extent once developed, would create a

scenario whereby the two settlements would effectively appear as one with little in the way of open rural character to differentiate between the communities. In addition, the aerial image<sup>223</sup> provided to us at the hearing clearly demonstrated the 300m separation between the RCP031 site and the Modena Place subdivision in Mandeville. We accept the planning evidence in this regard that this is directly at odds with the operative District Plan policy framework or what is intended by way of the higher order documents, which all seek to promote a centres-based approach.

### *Findings*

[302] We find that the changes to amenity values (including effects on landscape character and visual amenity) are to be expected given the proposed change from an open rural landscape to residential land use. Having considered the positive effects of an increased housing supply, on balance we do not consider these changes to be adverse.

[303] We find that the proposal would significantly and negatively impact the existing village character of Ōhoka as anticipated in Policy 18.1.1.9. We discuss this policy further in our statutory evaluation but note here that the applicant has not proposed any change to the policy wording to accommodate the development and the proposed amendment to the explanation to reflect new zones, does not overcome the policy direction towards the provision of low-density development and rural village character at Ōhoka.

[304] We find that the full proposal does not create a consolidated urban form for Ōhoka as it extends towards Mandeville, blurring the margins of both settlements.

[305] Although not the applicant's proposal we were provided with a scaled down plan change, which was limited to approximately 360-442 dwellings<sup>224</sup>. We have considered this in the context of the evidence received on rural character, amenity and landscape evidence and

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223 Summary of evidence Mr Nicholson at Figure 4

224 Supplementary evidence in closing Mr Walsh at [52]

concluded that it is more consistent with the scale of development anticipated in Policy 18.1.1.9 but note that this is not the applicant's preferred proposal.

## **Aquatic and Terrestrial Ecology**

### *Issues*

[306] Issues to arise during the hearing and in submissions included the potential enhancement and net ecological benefits at the site and downgradient of the site compared to current land use; the impact of the proposal on the habitat of the eel population observed by submitters to travel overland across wet paddocks on the plan change site; and impact of urban design requirements on the ecological value of proposed setbacks due to urban safety considerations. Some submitters also voiced concerns relating to the management of cat populations that might arise from the scale of residential activity proposed on the site, and the loss of habitat for birds (e.g. owls, hawks, pūkeko) which required open pasture and rural land to flourish.<sup>225</sup>

[307] A key issue in contention was the impact of urbanisation on the hydrology of waterbodies, and whether the potential ecological effects of the plan change promoted by the applicant would be limited by impacts to the hydrology of the site and the proposed setback distances.

### *Submissions and Evidence*

#### *Ecological impacts onsite and downstream / downgradient of the site*

[308] We heard from many submitters during the hearing who expressed concern about the impact of the proposal on terrestrial and aquatic habitats and wildlife in the area<sup>226</sup> and the

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225 Submitters for example P Trumic [#40], G Kilner [#538], A Arps [#205]

226 For example, P Trumic [#40], AJ Low [#416], A Arps [#205], E Hamilton [#287], A Gibbs [#50], M Vermaat (151), C E Doherty [#283]

potential for the proposal to ‘upset’ the planting and ecological restoration works undertaken by the community in recent years in and around Ōhoka Bush.<sup>227</sup> Sarah Barkle (representing the Oxford/Ōhoka Community Board<sup>228</sup>) spoke to us about the initiatives underway to educate landowners about stream maintenance and plantings to support local ecology.

[309] Mr Taylor, ecologist for the applicant, stated that *“it is considered that, with ecologically suitable riparian buffer strips and the existence of clear ecological pathways for downstream habitats, the ecology in the Plan Change Area can be significantly enhanced from its currently “fair” level. However, this will also require a high standard of stormwater treatment to protect the instream ecology within the Plan Change Area, but also the receiving environment, including Ōhoka Bush”*.<sup>229</sup>

[310] Mr Taylor further stated *“given the utility of Ōhoka Bush as a source of native insects, and an existing “fair” level of stream health within the Plan Change Area, a high level of ecological protection holds the potential to produce aquatic habitats of a significant standard in the Plan Change Area. This potential will be contingent on ecological dispersal paths from Ōhoka Bush, including riparian strips and road bridging which facilitate ecological dispersal.”*

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[311] Ms Drummond (freshwater ecologist for the applicant) set out in her evidence the reasons why she is supportive of RCP031 in terms of freshwater bodies and ecosystem values. She is of the view that the amended ODP and ODP text incorporates design and mitigation strategies that will provide ecological betterment to both the onsite waterways and those downstream.<sup>231</sup> She further noted that there is an opportunity to link Ōhoka Stream to the Ōhoka Bush, downstream of Whites Road, to increase in the length of the Ōhoka Stream ecological corridor and improve not only instream conditions, but overall biodiversity values in the area.<sup>232</sup>

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227 For example, Oxford/Ōhoka Community Board [#370], N Killner [# 592, 634, 633, 632], L Joris [#105]

228 Oxford/Ōhoka Community Board [#370]

229 Supplementary evidence Mr Taylor (orally delivered by Ms Drummond) at [7]

230 Supplementary evidence Mr Taylor (orally delivered by Ms Drummond) at [8]

231 Evidence in chief Ms Drummond at [9-11]

232 Supplementary evidence Ms Drummond at [6]

[312] Further, Ms Drummond stated that the provided minimum setback distances from waterways on the site (springheads and watercourses) and the requirement for an Ecological Management Plan will provide controls on potential ecological impacts to the site. The removal of dairy farming activities from this site will also result in a reduction in agricultural contaminants in the waterways on site and downgradient (nitrogen, phosphorus, sediment and *Escherichia coli* (*E. coli*)), as required under Plan Change 7 (PC7) of the LWRP. Impacts on Longfin eel habitat

[313] The Council's submission on RCP031 included a section on protection of indigenous fauna including longfin eels. During the hearing we heard from AJ Low and Ngaire Borlase also expressed concern about the impact of the development on eels travelling overland through the plan change site across the wet paddocks to the Ōhoka streams. The evidence of Ms Drummond stated that there is no loss of habitat expected as a result of the proposal and that the proposed stream buffers along with native riparian buffers will result in not only the protection of stream habitat, but its enhancement.<sup>233</sup> Similarly, Mr Taylor noted that maintaining bank stability through the use of ecologically significant setbacks from the banks and maintenance of spring base flows (and depth) will enhance habitat for longfin eel. Further, he noted that Longfin eels, particularly the larger specimens, require water depth and stable bank structure for refuge.<sup>234</sup> In response to a Panel question about the reported behaviour of eels by submitters, he noted that the provision of a quality riparian environment and adequate buffer distances from waterways provide appropriate migratory pathways for eels.

#### *Hydrological connections*

[314] There is general agreement between Dr Burrell (ecologist for the Regional Council) and Ms Drummond that the potential to improve the ecological value of the waterways on site is reliant on maintaining hydrological connections.<sup>235</sup> In considering this, Ms Drummond stated

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233 Evidence in chief Ms Drummond at [20]

234 Evidence in chief Mr Taylor at [52]

235 Supplementary evidence Ms Drummond at [10], Evidence in chief Dr Burrell at [29-30]

that mitigation of groundwater flow paths and minimum buffer distances from springs therefore need to be established at the plan change stage in order to reduce uncertainty in effects.<sup>236</sup>

[315] Relying on evidence of Mr Veendrick<sup>237</sup>, Ms Drummond explained that the highest risk of reduced spring flow and spring water levels is from shallow groundwater being intercepted by the construction of service trenches and hardfill areas (such as roads), which could reduce groundwater flow to the springs. In her view, based on the controls, methods, construction methods put forward in the evidence of Mr McLeod and Mr Veendrick, along with updated monitoring specified in the ODP text for both groundwater and surface water, appropriate controls can be implemented to maintain the hydrology of the springs on site and avoid a reduction in spring ecological value.<sup>238</sup>

[316] Ms Drummond noted that she had revised the proposed setbacks for identified springs on the site. She explained that in her evidence in chief a 20m setback for the northern spring and 30m setback for the southern spring was proposed. At the hearing she explained that a 30m for both the northern and southern springs was appropriate to provide the same level of protection for both spring heads and to enable a higher level of enhancement.<sup>239</sup> Mr Taylor also explained that the reason for the increase in setback was based on recent hydrological evidence suggesting a greater spring discharge, and that a larger setback is required to ensure its hydrological state. In his view, the setback is of sufficient size to be ecologically functional and is consistent with the setback around the Central spring head.<sup>240</sup>

[317] In terms of the setback for the groundwater seep, Ms Drummond explained that the proposed 20m setback has been retained for the reason that it has a much smaller volume of water flowing from it and a lower level of enhancement potential compared to the northern and southern springs. In her view a larger setback was not required at the RCP031 site because the two spring heads and the groundwater seep spatially isolated. She commented on the

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236 Supplementary evidence Ms Drummond at [10]

237 Evidence in chief Mr Veendrick 3 August 2023

238 Supplementary evidence Ms Drummond at [11]

239 Ibid at [12]

240 Supplementary evidence Mr Taylor (orally delivered by Laura Drummond) at [22]

100m setback that was provided for springs/wetlands at the PC69 site and explained that the setbacks in that case were determined on the basis of the very high ecological value of the extensive spring fields on site, which were clustered together. A larger setback at that site protected the hydrology of the springs and waterways within the site more effectively.<sup>241</sup>

[318] Mr Taylor further commented that while the groundwater seep is a natural wetland, the linear waterway leading south-east to Whites Road has been constructed and aligned to paddock fence lines and so regards this waterway as a 'farm drainage canal' that does not directly engage the District Plan setback rules for waterways, nor the RMA/NES definition of a river.<sup>242</sup> He remained of the view that a 10m well-vegetated buffer would be appropriate for the groundwater seep channel, but only because of its probable limited biodiversity, and limited ecological dependence to bank vegetation. In his view that the narrower proposed 10m setback provides a physical waterway structure, and also provides nutrient and contaminant uptake.<sup>243</sup>

[319] We heard from submitter Ms L Joris<sup>244</sup> who expressed concern that springs on the northeastern area of the site had not been accounted for by the applicant's experts. At the hearing we asked the applicant to investigate the springs reported by Ms Joris and to provide further evidence on this matter. Ms Drummond's supplementary evidence<sup>245</sup> advised that she had visited the site and assessed the potential spring presence in the area. In her view while the presence of surface ponding in these areas was evident, none of the areas are 'springs' as there was no signs of flow rising from groundwater and the dominant vegetation was pasture grasses.

[320] Further, discussion with the landowner and a review of aerial imagery indicate that these areas have no standing water during dry conditions, however, water will sit in depressions in the land when it rains heavily due to the clay layer reducing infiltration to the

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241 Supplementary evidence Ms Drummond at [12]

242 Supplementary evidence Mr Taylor (orally delivered by Laura Drummond) at [17]

243 Supplementary evidence Mr Taylor at [19-20]

244 Submitter L Joris [#105]

245 Supplementary evidence of Ms Drummond, 4 September 2023.



ground. On this basis, Ms Drummond concluded that these areas do not require the protection of spring setbacks at this stage under the ODP. However, she noted that further assessment of the area will be required as part of the subdivision consent stage and recommended updated wording in the ODP text to this effect.

#### *Impact of urban design requirements*

[321] Dr Burrell, said in his experience, urban waterway setbacks are often filled with landscaping enhancements that do not enhance ecological values, such as paths, which detract from the ecological value of the buffer. In addition, he noted that landscape designs in urban areas must consider Crime Prevention Through Environmental Design and 'CPTED' features can result in fewer trees being planted along paths bordering waterbodies.<sup>246</sup>

[322] We heard from Ms Drummond who stated that in her opinion these details can be worked through at the subdivision design stage, when detailed landscape drawings are prepared. However, she further noted that to provide additional assurance that the plan change will result in enhancement of these waterways the ODP text had been updated to specify minimum requirements of the Ecological Management Plan to provide controls on ecological betterment of the waterways on site, including:

*15.1 Groundwater, spring water level and spring flow monitoring investigation across the site to inform construction methodologies;*

*15.2 Riparian planting plans with a focus on promotion of naturalised ecological conditions, including species composition, maintenance schedules, and pest and predator controls;*

*15.3 Landscape design drawings of stream setbacks are to include input and approval from a qualified freshwater ecologist, with a minimum of the first 7 m of the spring and stream setbacks will be reserved for riparian vegetation only,*

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246 Evidence in chief Dr Burrell at [38 & 39]

*with no impervious structures and pathways as far as practicable away from the waterway; and*

*15.4 Stream ecology monitoring (i.e., fish, invertebrates, instream plants and deposited sediment surveys).<sup>247</sup>*

### *Summary Terrestrial and Aquatic Ecology*

[323] Overall, Ms Drummond was supportive of RCP031 in terms of freshwater bodies and ecosystem values. She is of the view that the amended ODP and ODP text incorporates design and mitigation strategies that will provide ecological betterment to both the onsite waterways and those downstream.<sup>248</sup>

[324] Overall, Mr Taylor stated that based on the provision of ecologically significant riparian strips and a high standard of stormwater treatment, there is a high probability that the Plan Change Area could become an outstanding ecological area.<sup>249</sup>

[325] Mr Willis concluded that based on based on the applicant's evidence and amendments to the proposal in response to both the Department of Conservation's submission and the evidence of Mr Burrell, it appears there are no longer any ecology matters in contention.<sup>250</sup>

### *Discussion*

[326] Overall, given the evidence provided to us and the applicant's amendments to the proposal in response to submitters and council s42A officers, we accept that the plan change proposal incorporates appropriate design and mitigation strategies that will result in ecological betterment to both onsite waterways and those located downstream. In reaching this view we

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247 Supplementary evidence Ms Drummond at [14 & 15]

248 Evidence in chief Ms Drummond at [9-11]

249 Supplementary evidence Mr Taylor (orally delivered by Laura Drummond) at [23]

250 Supplementary statement of evidence Mr Willis on behalf of the Waimakariri District Council, Appendix 1 at [4]

note the existing land use which does little in the way of protecting or enhancing waterbodies within the site.

[327] Of note, we agree that the applicant's amended ODP text provides an additional level of assurance that the plan change will result in enhancement of waterways by specifying minimum requirements of the Ecological Management Plan to provide controls on ecological betterment of the waterways onsite.

[328] We also accept the evidence that there is an opportunity to link Ōhoka Stream to the Ōhoka Bush, downstream of Whites Road, to increase in the length of the Ōhoka Stream ecological corridor and improve not only instream conditions, but overall biodiversity values in the area.

[329] We are reassured that in response to submitter concerns regarding additional springs reported on the northeastern area of the site, that these have been determined to be surface ponding where water will sit in depressions in the land when it rains heavily due to the clay layer reducing infiltration to the ground. In any case, we note that the applicant's expert has recommended changes to the ODP which requires further assessment at the subdivision stage and find this to be appropriate.

### *Findings*

[330] We find RCP031 provides for potentially significant benefits from an aquatic ecological perspective and provides tangible opportunities for environmental gain in the protection and enhancement of the springs and waterways and their ecological values.

[331] We are satisfied terrestrial ecological matters have been satisfactorily resolved and that there are no outstanding issues of concern.

[332] Overall, we find the proposal is consistent with relevant policy including the NPS-FM, NES-F, and CRPS chapters relating to freshwater, ecosystems and indigenous biodiversity,

and beds of rivers, lakes and their riparian zones. We discuss this further in the statutory assessment.

## **Commercial Distribution**

### *Issues*

[333] Key issues traversed at the hearing included the extent to which the proposal would result in retail effects of a scale that could undermine the function, viability and vibrancy of the centres in the District, in particular Mandeville; determining the appropriate gross floor area (GFA) cap for Business 4 Zone land in RCP031 that would avoid any significant adverse effects on other centres in Waimakariri District including Mandeville; and whether the GFA should be consolidated into one centre in the Business 4 Zone land in RCP031 or whether a portion of the floor area can be justified as a second centre Business 4 Zone land.

### *Submissions and Evidence*

[334] Objective 16.1.1 of the Operative District Plan seeks to maintain different zone qualities which provide opportunities for a range of business development appropriate to the needs of the business community, residents and visitors while sustaining the form and function of the urban environments.<sup>251</sup> Supporting Policy 16.1.1.1(h) seeks to recognise and provide for several Business Zones with different qualities and characteristics which meet the needs of people, businesses and community expectations while ensuring the town centres remain and provide the dominant location and focal point for business, social, cultural, and administration activities.<sup>252</sup>

[335] In his s42A Report, Mr Willis noted that RCP031 proposed a new ODP Policy 16.1.1.12 which provided for limited business activity but did not seek to manage potential impacts on Mandeville or Kaiapoi. He observed that the approach taken by the applicant when

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251 Request for Change Novo Group Report at [p33]

252 s42A Report at [7.3.139]

determining the appropriate scale of the proposed business area appeared to be limited by the zone size, the requirement to maintain the characteristics of the Ōhoka settlement, and the requirement to serve day-to-day convenience needs.<sup>253</sup>

[336] The Economic Review by Mr Yeoman and Mr Foy<sup>254</sup> addressed retail distribution effects. The assessment identified that the appropriate size for the Ōhoka local centre would be less than 2,700m<sup>2</sup>, and much less than the 5,700-6,500m<sup>2</sup> of commercial floorspace the plan change request anticipated might establish in the zone proposed. The assessment concluded that the Mandeville Centre would be the most likely to be affected by retail distribution impacts. They further noted that given the maximum permitted GFA in the Mandeville Centre of 2,700m<sup>2</sup> (proposed under PDP rule LCZ-R4), the 3,000m<sup>2</sup> of GFA oversupply in the proposed larger Ōhoka centre would have the potential to generate material adverse retail distribution effects on the Mandeville Centre.

[337] Ms Hampson, an economist for the applicant, concluded that the distributional effects of a new centre that combined a range of convenience activities in RCP031 would not lead to any significant adverse effects on other centres in Waimakariri District. In reaching this view, Ms Hampson supported a total gross floor area (GFA) cap for Business 4 Zone land in RCP031 of between 2,500-3,000m<sup>2</sup>, consistent with Formative's analysis which indicated that total GFA of 2,700m<sup>2</sup> was likely to be sustainable if RCP031 was approved. In her view, consolidating floorspace in the Business 4 Zone proposed on Whites Road would maximise the social and economic benefits of providing convenience retail and service activity as part of RCP031. Alternatively, a portion of the total GFA cap could be used to develop a small group of shops in the Business 4 Zoned land on Mills Road once the larger centre was fully developed.<sup>255</sup>

[338] Mr Willis stated in the s42A Report that "assuming Mr Yeoman's assumptions are correct, I consider there should be a retail cap included in RCP031 of 2700m<sup>2</sup>, triggering an

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253 s42A Report at [6.11.7]

254 Proposed Plan Change 31 Economic Review and Support prepared for Waimakariri District Council at [4.2.9]

255 Evidence in chief Ms Hampson at [13-14]

assessment of impacts on adjacent centres where this is breached. I also consider that proposed Policy 16.1.1.2 should refer to not undermining the Mandeville and Kaiapoi centres.”<sup>256</sup> In reaching this view he noted the absence of relevant detail in RCP031 on this matter.

[339] We heard from Mr Edwards, a planning and traffic engineering consultant in support of the submission lodged by Mandeville Village Limited Partnership (MVLV). Mr Edwards was not providing evidence as an expert witness but he presented a view that the proposal is inconsistent with the hierarchy of centres identified in the proposed plan and subsequently inconsistent with the objectives and policies of the proposed plan.<sup>257</sup> Mr Edwards set out the relief sought by the Partnership including the inclusion of a rule that recognised a maximum centre floor area that is less than what could be developed on the expanded Mandeville Village site; a maximum tenancy floor area no greater than the 200m<sup>2</sup> allowed for by the currently proposed Neighbourhood Centre Zone (NCZ) rules, and that the development of any commercial floor space on the RCP031 be staged relative to residential development on that site in order to protect to ongoing vitality and hierarchy of the proposed Local Centre Zone (LCZ) at Mandeville Village.<sup>258</sup>

[340] The evidence of Ms Hampson for the applicant addressed the concerns of the Mandeville Village Limited Partnership. Based on her modelling, she was of the view that, in the absence of a new commercial centre within RCP031 over time, the Mandeville centre may not have sufficient capacity to efficiently meet all catchment demand as RCP031 becomes fully developed. Her modelling indicated that both centres can be sustained in the medium term.<sup>259</sup>

[341] Overall, she was of the view that RCP031 will have negligible adverse effects on the Town Centres of the District. She considered that the expansion of the centre network to

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256 s42A Report at [6.11.10]

257 Statement of Raymond John Edwards in support of the Mandeville Village Partnership Ltd at [3]

258 Ibid at [4]

259 Evidence in chief Ms Hampson at [88]

include an Ōhoka centre posed no threat to the primacy of higher order centres if appropriately sized.<sup>260</sup>

[342] We note that both Ms Hampson and Mr Yeoman agree that the larger Business 4 Zone should equate to a Local Centre role in the proposed plan terms and is appropriately located within the RCP031 site.<sup>261</sup>

[343] Mr Yeoman highlighted the agreement reached between all experts that the commercial land as originally proposed in RCP031 is too large, that a condition limiting GFA to 2,700m<sup>2</sup> is required. He considered there is inadequate justification for the second centre.<sup>262</sup>

[344] Ms Hampson also commented that a potential alternative to a single centre was for a portion of the total GFA cap being used to develop a small group of shops in the Business 4 Zoned land on Mills Road once the larger centre was fully developed.<sup>263</sup> Ms Hampson detailed her concerns with this approach including that it would require the recommended total GFA cap to be split over two locations that are relatively close to each other. She considered this would dilute the potential foot traffic and vibrancy generated by the retail and commercial floorspace over two separate locations and would lead to less efficient travel patterns. Ms Hampson concluded in her evidence that consolidating the floorspace in the Business 4 Zone proposed on Whites Road will maximise the social and economic benefits of providing convenience retail and service activity as part of RCP031.<sup>264</sup>

[345] Ms Hampson further commented that, if a second area of commercial zoning was retained in RCP031, it should be zoned (in the context of the proposed plan) at a lower level in the centre hierarchy (i.e as a Neighbourhood Centre) and delivered within the same GFA cap for RCP031. Further, she recommended its development should be delayed until the large

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260 Evidence in chief Ms Hampson at [89]

261 Ibid [98]

262 Supplementary evidence of Mr Yeoman

263 Evidence in chief Ms Hampson [14]

264 Ibid at [13]

local centre is fully developed and could be subject to an assessment that demonstrates the economic performance and health of the Mandeville centre to further ensure that both locations are sustainable as predicted by the modelling. We note that both Mr Yeoman and Ms Hampson agreed that the second smaller centre on Mill Road (if retained) would need to be only a small group of shops (i.e., small relative to the Local Centre), but that it lacked a strong economic rationale for inclusion of RCP031.<sup>265</sup>

[346] Mr Willis in his supplementary evidence accepted the evidence of Ms Hampson and Mr Walsh that a 2700m<sup>2</sup> retail cap is proposed, along with an amendment to Policy 16.1.1.12.<sup>266</sup> For completeness we note that the retail cap does not include the farmers market.

### *Discussion*

[347] The relevant experts unanimously agree that the commercial land as originally proposed in RCP031 is too large and that a condition limiting GFA to 2,700m<sup>2</sup> is required. We accept this approach and note that the applicant has reflected this change in the updated ODP.

[348] It is clear to us that the primary recommendation of Ms Hampson was that a consolidated floorspace in the Business 4 Zone would maximise the social and economic benefits of providing convenience retail and service activity as part of RCP31. We did not hear compelling evidence that would justify the second smaller centre within the plan change.

[349] If the development were to be stalled at 250 households due to traffic capacity constraints, it is unclear what if any impact this would have on the timing or delivery of a commercial centre within the development area.

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265 Evidence in chief Ms Hampson at [98]; Proposed Plan Change 31 Economic Review and Support prepared for Waimakariri District Council at [4.4]

266 Supplementary evidence Mr Willis at [8]



## Findings

[350] We are satisfied that the revised proposal incorporating a cap on GFA of 2700m<sup>2</sup> is appropriate to address actual and potential retail distribution effects from the proposal.

## 7. STATUTORY ASSESSMENT

### The requirements for approval of a plan change

[351] We have followed the general requirements for consideration of a plan change as outlined by the Environment Court in the decisions of *Long Bay Okura Park Society Inc v North Shore City Council* and *Colonial Vineyards Limited v Marlborough District Council*.<sup>267</sup>

[352] The statutory considerations have been updated to reflect amendments to the RMA since those decisions were issued, but generally follow the summary of requirements.

- (a) A district plan (change) should be designed to accord with and to assist the territorial authority to carry out – its functions so as to achieve the purpose of the Act;<sup>268</sup>
- (b) When preparing its district plan (change) the territorial authority must give effect to any national policy statement or New Zealand Coastal Policy Statement and any National Planning Standard;<sup>269</sup>
- (c) When preparing its district plan (change) the territorial authority shall:

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267 *Long Bay Great Park Society Inc v North Shore City Council Decision A 78/2008* at para [38], modified to account for changes to the RMA in *Colonial Vineyard Limited v Marlborough District Council* [2014] NZ EnvC 55 at [17].

268 S74(1)(a) and (b) RMA

269 S75(3) RMA

- (i) Have regard to any proposed regional policy statement;<sup>270</sup>
  - (ii) Must give effect to any operative regional policy statement.<sup>271</sup>
- (d) In relation to regional plans:
- (i) The district plan (change) must not be inconsistent with an operative regional plan for any matter specified in s30(1) of the Act or a water conservation order;<sup>272</sup>
  - (ii) Must have regard to any proposed regional plan on any matter of regional significance etc.<sup>273</sup>
- (e) When preparing its district plan (change) the territorial authority must also;
- (i) Have regard to any relevant management plans and strategies under other Acts;<sup>274</sup>
  - (ii) Take into account any relevant planning document recognised by an iwi authority.<sup>275</sup>
- (f) There is a formal requirement that a district plan (change) must also state its objectives and policies and the rules (if any) and may state other matters;

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270 S74(2a)(i) RMA  
 271 S75(3)(c) RMA  
 272 S75(4) RMA  
 273 S74(2)(a)(ii) RMA  
 274 S74(2)(a)-(e) RMA  
 275 S74(2A) RMA

- (g) There is then reference to the test under s32 of the Act for objectives<sup>276</sup> of the proposal is to be evaluated by the extent to which it is the most appropriate way to achieve the purpose of the Act;<sup>277</sup>
- (h) The policies are to implement the objectives and the rules (if any) are to implement the policies;<sup>278</sup>
- (i) Each proposed policy or method (including each rule) is to be examined having regard to its efficiency and effectiveness, as to whether it is the most appropriate method for achieving the purpose of the plan change and the objectives of the District Plan by identifying other reasonably practicable options for achieving the objectives; and assessing their efficiency and effectiveness of the provisions in achieving the objectives, including by:
  - (i) Identifying and assessing the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions; including opportunities for economic growth that are anticipated to be provided or reduced and employment that are anticipated to be provided to reduced (if practicable these are to be quantified);<sup>279</sup> and
  - (ii) The risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.<sup>280</sup>
- (j) In making rules the territorial authority must have regard to the actual and potential effect of activities on the environment;<sup>281</sup>

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276 S32(6) In this context where there are no objectives proposed the objective is the purpose of the proposal.

277 SS74 (1)(d) and s32(1)(a) RMA

278 S75(1)(b) and (c) RMA and s76 (1)

279 Section 31(2)(b)

280 Section 32(2)(c ) RMA

281 Section 76 (3) RMA

[353] Mr Willis noted that any plan change must assist the Council to carry out its functions so as to achieve the purpose of the Act, including the establishing, implementing, and reviewing of objectives, policies, and methods to achieve integrated management of the effects of the use and development of land, and controlling actual or potential effects of the use and development of land.

[354] Mr Willis noted that paragraph 159 of the applicant's s32 report stated that the plan change request accords with these stated functions. Mr Willis agreed that the proposal enables the Council to undertake these functions.<sup>282</sup>

### **Statutory Documents**

*Does the plan change give effect to National Policy Statements and the Operative Regional Policy Statement?*

*NPS for Renewable Electricity Generation 2011 and NPS for Electricity Transmission 2008*

[355] Mr Willis accepted the applicant's s32 conclusion that the proposal does not involve, nor is it located in, the proximity of a renewable electricity generation activity. He also accepted the applicant's s32 conclusion that the proposal is consistent with the NPS for Electricity Generation 2008.

[356] Transpower (submitter #191) sought a number of changes in relation to additional subdivision, land use and landscaping restrictions in the vicinity of the National Grid and for consultation requirements for subdivision consent to be built into the ODP. As discussed at [174-180] of this decision, we are satisfied that all issues have been resolved such that the proposal gives effect to these policy documents.

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282 s42A Report at [7.1]

*NPS for Freshwater Management and NES Freshwater*

[357] Mr Willis accepted the applicant's s32 assessment where it concluded that no practices or effects are anticipated that would be inconsistent with the NPS for Freshwater Management, noting that stormwater and wastewater discharges will be dealt with at subdivision stage.<sup>283</sup>

[358] We discussed the applicant's response to submitter concerns at [306]-[332] above. We are satisfied that with the proposed amendments to the ODP all concerns have been appropriately addressed. We agree that the proposal would achieve consistency with, and give effect to, the NPS-FM.

[359] We note that Mr Taylor's evidence confirms that requirements in respect of the NES-F have been appropriately considered. We agree that requirements of the NES-F relating to culverts can be determined at the time of subdivision consenting stage. On this basis, we accept that the proposal achieves consistency with, and gives effect to, the NES-F.

*National Environmental Standard for Assessing and Managing Contaminations in Soil to Protect Human Health*

[360] Mr Willis advised that as this is a request for a zone change (and not to determine the actual detailed subdivision and use of the site) the National Environmental Standard for Assessing and Managing Contaminations in Soil to Protect Human Health (NESCS) does not strictly apply.<sup>284</sup> We agree and note that the requirements of the NESCS will be addressed at any subsequent subdivision or building consent stage. As discussed at [120]-[149] above there is no indication at this stage that the land is unsuitable for development from a contaminated land perspective.

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283 s42A Report at [7.3.3]

284 s42A Report at [7.3.4]

*National Policy Statement for Urban Development 2020*

[361] We have addressed the application of the NPS-UD above in Section 5. We have concluded that the NPS-UD applies to the proposed plan change and that Ōhoka is part of the urban environment of Greater Christchurch and the Waimakariri District.

[362] We have concluded that RCP031 does not contribute to a well-functioning urban environment and therefore does not give effect to Objective 1 and Policy 1.<sup>285</sup>

[363] An increase in housing supply wherever located has the potential to improve affordability, however, it is difficult to quantify. We find that RCP031 has the potential to give effect to Objective 2.

[364] We have found on the evidence regarding transportation effects discussed at [181]-[234] above that the proposal is not located in or near a centre zone or area of employment; is not well serviced by public transport; or where there is high demand for housing or business land and therefore does not give effect to Objective 3. We acknowledge there will be demand for single dwellings on larger allotments within a rural setting, but the evidence does not establish a “high demand”.

[365] We have approached our evaluation of changes in amenity being a consequence of changing urban environments and that in itself effects on amenity are not adverse. We have considered the effects on rural character at Ōhoka and note that if change is to occur there will be inevitably a change in character of an area. We are satisfied that if approved that RCP031 would give effect to Objective 4 and our decision addresses Policy 6.

[366] We accept that with regard to three waters infrastructure that the site can be appropriately integrated with infrastructure and notwithstanding that the development of the site and take up of wastewater infrastructure is not necessarily planned for, adequate servicing is available at all stages of the development. However, with regard to transportation

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285 Above at [96] – [116] and [179] – [232]

infrastructure, in particular the provision of public transport and the need for roading improvements at the Tram Road/SH1 interchange, mean that the originally proposed 850 residential sections are not integrated with infrastructure planning and funding decisions and therefore are unlikely to be realised in the medium term. Even at 250 residential allotments the development capacity is not integrated with public transport planning. Overall, we consider that RCP031, with its current transportation constraints, is not strategic in the medium or long term. Notwithstanding that RCP031 would supply significant development capacity it does not give effect to Objective 6 or meet the requirements of Policy 8. We have had particular regard to clause 3.8 of the NPS-UD in reaching our conclusion on the need to respond to the ability of RCP031 to contribute significant development capacity.

[367] We have already concluded that the proposal is unlikely to contribute to a reduction in greenhouse gas emissions and will exacerbate the current reliance on private motor vehicles because the site is not adequately served by public transport alternatives and the site is not sufficiently near a centre to support active transport alternatives. We find RCP031 does not give effect to the first limb of Objective 8.

[368] Overall, we have concluded that approval of RCP031 will not give effect to the NPS-UD.

#### *National Policy Statement for Highly Productive Land*

[369] The majority of the land within RCP031 is identified as LUC Class 3, with a small area on the northwestern corner of Mill and Bradleys Roads being identified as LUC Class 2.

[370] As noted by Mr Willis, the NPS-HPL came into force on 17 October 2022, being after the time the plan change proposal was received and notified by the Council. As a result, the s32 does not specifically address this policy statement.<sup>286</sup>

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286 s42 Report at [7.3.82]

[371] Given the significance of this matter, we have carefully considered the technical and evaluative evidence and legal submissions received from submitters, s42A authors and the applicant. Overall, we find that the NPS-HPL does not apply to the site.

### *Canterbury Regional Policy Statement*

[372] The District Plan is required under Section 75(3) of the Act to give effect to the operative CRPS.<sup>287</sup> We heard from several submitters during the hearing that RCP031 does not give effect to various provisions with the CRPS.<sup>288</sup>

[373] The applicant's assessment in its s32 report focussed on objectives and policies of the CRPS relating to land-use and infrastructure (Chapter 5), recovery and rebuilding of Greater Christchurch (Chapter 6) and soils and the maintenance of soil quality (Chapter 15).<sup>289</sup>

### *Chapter 5*

[374] Mr Walsh in the s32 Report identified Objective 5.2.1 (to the extent relevant to the Region) as a key objective which seeks to address the location, design and function of development in the Region. Mr Walsh commented that development enabled by the plan change proposed is not within an existing urban area but will be consolidated around the existing urban area of Ōhoka; that the quality of the environment will be maintained, and enhanced in some respects, particularly in relation to ecology.<sup>290</sup> Mr Willis was in general agreement with the applicant's appraisal of this objective.

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287 There is not currently a proposed Regional Policy Statement, although the Canterbury Regional Council has indicated its intention to review the CRPS, including for the purpose of giving effect to the NPS-UD and NPS-HPL later in 2024.

288 Submitters for example ECan (507), WDC (216) and The Ōhoka Residents Association (431).

289 Request for Change to Waimakariri District Plan, Novo Group Report at [183-198]

290 Request for Change to Waimakariri District Plan, Novo Group Report at [185-188]



[375] Ms Mitten for Canterbury Regional Council submitted that the proposal does not give effect to Objective 5.2.1 on the basis that it does represent development that is located or designed to achieve a consolidated pattern of urban development.<sup>291</sup>

[376] We accept the applicant's view that the quality of the environment will be maintained and enhanced in some respects (particularly in relation to ecology) and that there are no incompatible activities in the vicinity. The applicant said that the proposal will not affect significant infrastructure, however the notified version did not consider the impact on the Tram Road/SH 1 interchange. As discussed at [235]-[305] above, we reach a different view regarding urban form and disagree that the proposal will be 'consolidated' around the existing urban area of Ōhoka. On this basis we find that the proposal does not give full effect to Objective 5.2.1.

[377] Ms Mitten for Canterbury Regional Council submitted that the proposal does not give effect to Policy 5.3.12 of the CRPS which seeks that the maintenance and enhancement of Canterbury's natural and physical resources that contribute to Canterbury's overall rural productive economy in areas that are valued for existing or future primary production by avoiding development and/or fragmentation that forecloses the ability to make appropriate use of that land for primary production.<sup>292</sup> She further identified Policy 5.3.2 as being relevant to the management of versatile soils in the wider Region.

[378] While we accept the directive nature of these CRPS policies, the WDP and proposed plan provide for subdivision on the site as a controlled activity into 4ha allotments. Further, we accept that rural lifestyle use is the most likely outcome for the site if ideal demand scenarios were realised. This would have the effect of significantly reducing the current productive capacity of the site. We do not find RCP031 inconsistent with this policy.

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291 Evidence in chief Ms Mitten at [5]

292 Ibid at [5 & 119]

## Chapter 6

[379] In terms of the recovery and rebuilding of Greater Christchurch (Chapter 6), Mr Walsh specifically identified Objective 6.2.1 (Recovery Framework), Objective 6.2.2 (Urban Form), Objective 6.3.1 (Development form and Urban Design), Policy 6.3.1 (Development within Greater Christchurch Area) and Policy 6.3.5 (Integration of Land use and Infrastructure) in the s32 Report as relevant provisions.

[380] As set out at the beginning of our Report at [29] there appears to be no dispute across planning witnesses that the policy framework in Chapter 6 of the CRPS clearly articulates that urban development is to occur inside the existing urban area and greenfield priority area within Greater Christchurch. There is also agreement that the proposal does not accord with those CRPS objectives and policies seeking to avoid urban development outside the urban area, and that the proposal does not align with the non-statutory direction in Our Space, the draft GC Spatial Plan and the District Development Strategy in respect of the location of urban growth.

[381] The key issue in contention is whether the NPS-UD Policy 8 enables development outside of the areas prescribed in the CRPS Chapter 6.

[382] Ms Appleyard outlined the approach to statutory interpretation applicable to reconciling Policy 8 NPS-UD with the CRPS Chapter 6 that in effect reads down Objective 6.2.1.3 of the CRPS and interprets the addition of an exception to the 'avoid' directive to give effect to the NPS-UD<sup>293</sup> Ms Appleyard submitted that we should read Objective 6.2.1.3 as meaning "except if otherwise provided for in the NPS-UD, avoid..." or "unless expressly provided for in the CRPS or by Objective 6, Policy 8 of the NPS-UD."

[383] We are satisfied that as the NPS-UD is the higher order planning document, it is appropriate that we read Chapter 6 as enabling consideration of out of sequence and unanticipated plan changes where they would deliver significant development capacity and

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293 Opening Legal Submissions for the applicant at [43] – [46]

contribute to a well-functioning urban environment. This approach is consistent with recent dicta of the Supreme Court in *Port Otago Limited v Environmental Defence Society Incorporated and Others*.<sup>294</sup> In that case Court was considering two policies within the New Zealand Coastal Policy Statement (NZCPS). Although a different context, we find the principles of interpretation applied in that case to be helpful in trying to reconcile Policy 8 and the CRPS.

[384] In that case the Court said<sup>295</sup>:

[60] The meaning to be accorded to the NZCPS should be ascertained from the text and in light of its purpose and its context.<sup>296</sup> This means that close attention to the context within which the policies operate, or are intended to operate, and their purpose will be important in interpreting the policies. This includes the context of the instrument as a whole, including the objectives of the NZCPS, but also the wider context whereby the policies are considered against the background of the relevant circumstances in which they are intended to and will operate. National directives like the NZCPS are by their nature expressed as broad principles.

[61] The language in which the policies are expressed will nevertheless be significant, particularly in determining how directive they are intended to be and thus how much or how little flexibility a subordinate decision-maker might have. As this Court said in *King Salmon*, the various objectives and policies in the NZCPS have been expressed in different ways deliberately. Some give decision-makers more flexibility or are less prescriptive than others. Others are expressed in more specific and directive terms. These differences in expression matter.

[62] A policy might be expressed in such directive terms, for example, that a decision-maker has no choice but to follow it, assuming no other conflicting directive policy. As this Court said in *King Salmon*:

... although a policy in a New Zealand coastal policy statement cannot be a “rule” within the special definition in the RMA, it may nevertheless have the effect of what in ordinary speech would be a rule.

[63] Conflicts between policies are likely to be rare if those policies are properly construed, even where they appear to be pulling in different directions. Any apparent conflict between policies may dissolve if “close attention is paid to the way in which the policies are expressed”. Those policies expressed in more directive terms will have

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294 *Port Otago Limited v Environmental Defence Society Incorporated and Others* (SC 6/2022) [2023] NZSC 112

295 Footnotes omitted.

296 Legislation Act 2019, s 10(1) which applies to both Acts of Parliament and to secondary legislation: s 5 definition of “legislation”. A national policy statement is secondary legislation: RMA, s 52(4). See also RI Carter Burrows and Carter Statute Law in New Zealand (6th ed, LexisNexis, Wellington, 2021) at 206.

greater weight than those allowing more flexibility. Where conflict between policies does exist the area of conflict should be kept as narrow as possible.

....

[67] All of the above means that the avoidance policies in the NZCPS must be interpreted in light of what is sought to be protected including the relevant values and areas and, when considering any development, whether measures can be put in place to avoid material harm to those values and areas.

[385] Taking that approach, aside from being unanticipated by the CRPS, the outcomes sought in Chapter 6 which require an integrated and strategic approach to the development of land with strategic infrastructure is not at odds with the NPS-UD outcomes. We are comfortable that Policy 8 provides a lever to consider out of sequence and unanticipated plan changes notwithstanding they are not contemplated in Map A, however, as required by the NPS-UD any plan change in question must deliver significant development capacity and contribute to a well-functioning urban environment (underline our emphasis).

[386] As discussed at [95] we have concluded that RCP031 meets the definition of significant development capacity, even if restricted to 250 residential allotments due to the requirement for, and lack of certainty for, improvements to the Tram Road/ SH 1 interchange. We have also concluded at [118] above that RCP031 does not contribute to a well-functioning urban environment at either 850 allotments or at 250 allotments.

[387] Mr Walsh broadly referenced transport related objectives and policies in Chapter 6<sup>297</sup> and Mr Willis specifically identified Objective 6.2.4 (Integration of transport infrastructure and land use) and Policy 6.3.4 (Transport Effectiveness) as being additional provisions relevant to our consideration.<sup>298</sup>

[388] Ms Mitten for Canterbury Regional Council submitted that the proposal does not give effect to Objective 6.2.4, Policy 6.3.4 and Policy 6.3.5 on the basis that it does not meet the wider transport network and land use integration outcomes sought by these provisions and

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297 Request for Change to Waimakariri District Plan, Novo Group Report at [189-198]

298 s42 Report at [7.3.89]

does not promote public transport which would reduce the dependency on private vehicle use.<sup>299</sup> Similarly, Mr Boyes in his planning evidence considered that the proposal does not give effect to these provisions, noting that *“the PC31 location adjacent to such a small existing ‘urban environment’ means that it is difficult to integrate strategic and other infrastructure and services”*.<sup>300</sup> We note Mr Willis’ agreement where he concluded that the proposal does not adequately give effect to Objectives 6.2.1(9) & (11), 6.2.4 and Policies 6.3.4 and 6.3.5.<sup>301</sup>

[389] Mr Willis considered CRPS Objectives 6.2.5 (Key activity and other centres) and 6.2.6 (business land development), and Policy 6.3.6 (business land) to be also directly relevant to the proposal.<sup>302</sup> As set out earlier at [333]-[350], we are satisfied that the proposal is consistent with those aspects of these provisions concerned with managing commercial distribution and avoiding significant adverse effects on the function and viability of the Central City, Key Activity Centres and Neighbourhood Centres.

[390] We have concluded that RCP031 does not give effect to Chapter 6 of the CRPS when considered in the round.

## Chapter 15

[391] Ms Mitten for Canterbury Regional Council submitted that the proposal does not give effect to Policy 15.3.1 which seeks to ensure that land uses, and land management practices avoid significant long-term adverse effects on soil quality and to remedy or mitigate significant soil degradation.

[392] As we have earlier addressed at [120]-[149], we find that the proposal will result in a minimal loss of versatile soils within a district or regional context, noting that the current (and proposed) planning framework provides for subdivision on the site as a controlled activity into

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299 Evidence in chief Ms Mitten at [5] and [98]

300 Evidence in chief Mr Boyes at [23-24]

301 s42 Report at [7.3.106-7.3.107]

302 s42 Report at [7.3.89]

4ha allotments, thereby significantly reducing the current productive capacity of the site. On this basis, we consider the proposal is consistent with Policy 15.3.1,

## *Chapter 16*

[393] Mr Willis considered Objective 16.2.1 and Policy 16.3.1 relating to the efficient use of energy to be directly relevant to the proposal.<sup>303</sup> Together these provisions seek to promote the efficient end-use of energy and development that is located and designed to enable the efficient use of energy. Mr Willis further noted that the explanation for the objective states that the use of energy can be made more efficient if development is designed and located to reduce the need to commute over significant distances, and services are closer to the population base. Mr Willis concluded based on the evidence that the subject site is not located in an area that would shorten trip distances, rather, development in this location (which is more isolated than other proposed district plan and Our Space identified growth locations) would likely increase trip distances as future residents will have to travel relatively greater distances for services, schooling and employment. On this basis he concluded that the proposal does not give effect to CRPS objective 16.3.1.

[394] We note Ms Mitten, Mr Boyes, and Mr Walsh did not address the provisions in Chapter 16 of the CRPS.

## *Chapters 7, 9, 10, 11, 17.*

[395] As noted in the s42A Report there are other provisions contained in CRPS chapters that are relevant, albeit to a lesser extent.<sup>304</sup> These include provisions in Chapter 7 (Freshwater), Chapter 9 (ecosystems and indigenous biodiversity); Chapter 10 (beds of rivers and lakes and their riparian zones), Chapter 11 (natural hazards) and Chapter 17 (contaminated land).

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303 s42 Report at [7.3.112-113]

304 Ibid at [7.3.91]

[396] Having considered and discussed relevant matters in earlier sections of this report we are satisfied that either there are no remaining issues to be resolved on these topic areas or alternatively the assessment is better undertaken as part of the subdivision and development.

*Is the proposal inconsistent with any relevant regional plan?*

*Canterbury Land and Water Regional Plan and Canterbury Air Regional Plan*

[397] As noted in the s42A report, the establishment of activities within the plan change site will either need to meet the permitted activity conditions of these plans or be required to obtain a resource consent.<sup>305</sup> The applicant briefly stated in its s32 assessment that the plan change proposal is not considered to be inconsistent with the Canterbury Land and Water Regional Plan (CLWRP) or the Canterbury Air Regional Plan (CARP).<sup>306</sup>

[398] As discussed at [150]-[173], we are sufficiently confident that the proposal has been designed to either meet permitted activity conditions of these plans, and if required to obtain a resource consent, that there is a legitimate consenting pathway available to the applicant. On this basis, we accept that RCP031 is not inconsistent with the CLWRP and the CARP.

*Relevant management plans, strategies and iwi planning documents*

*Mahaanui – Iwi Management Plan 2013*

[399] Mr Willis adopted the applicant's s32 assessment of the Iwi Management Plan, noting that consultation with the local Rūnanga via Mahaanui Kurataiao Limited had been undertaken, that a consultation report from Mahaanui Kurataiao Limited was included at Appendix J of the s32, and that the s32 responded to matters identified in the consultation report.

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305 s42 Report at [7.3.114]

306 Request for Change to Waimakariri District Plan, Novo Group Report at [203]

[400] We accept that the proposal has taken into account the policy preferences of mana whenua as expressed in the Mahaanui Iwi Management Plan.

### *Waimakariri District Development Strategy*

[401] The 2018 Waimakariri District Development Strategy 'Our District, Our Future – Waimakariri 2048' (DDS), which guides the district's anticipated residential and business growth over the next 30 years identifies the need for ongoing work needed to respond to the changing needs of the district including ensuring there is variety in housing choice in well-functioning urban environments, and access to jobs in a thriving local economy.

[402] As explained by Mr Willis in the s42A Report, the DDS was developed with significant community input, and directions signalled in the DDS were underpinned by environmental and cultural constraints and opportunities, expert advice, and background reports. While it predates the 2020 NPS-UD, it was developed under the now superseded 2016 NPS-UDC and still recognises the later NPS-UD's concepts, such as providing housing choice and the need to create well-functioning environments.<sup>307</sup>

[403] Both Mr Willis and Mr Boyes highlighted that the DDS provides for urban growth around the main towns or Rangiora, Kaiapoi, Woodend/Pegasus (including Ravenswood) and Oxford. The DDS intends that for Ōhoka, only existing vacant areas are to develop and promotes some further expansion opportunities, where generally consistent with historic growth rates. They both concluded that RCP031 does not accord with the anticipated scale of residential development/growth scenarios of the DDS.<sup>308</sup>

[404] The applicant's s32 Report did not address the DDS. During the hearing Mr Walsh addressed the DSS in the context of promoting the NPS-UD responsive decision-making

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307 s42A Report at [7.3.118]

308 s42A Report at [7.3.122]; Evidence in chief Mr Boyes at [44]



directive. He considered that while expansion of Ōhoka is not part of the growth strategy, the proposal is required to address a shortfall of development capacity in the district.<sup>309</sup>

[405] We find that the proposed does not accord with the anticipated scale of residential development/growth scenarios of the DDS.

#### *Proposed Waimakariri District Plan*

[406] We accept Mr Willis' advice that there is no specific requirement under s74(2) of the RMA to consider RCP031 against the proposed plan. However, we are not precluded from having regard to the proposed plan.<sup>310</sup> We agree that our consideration of the proposed plan is useful to understand the current issues in the District in terms of the Council's obligations under s74(1) of the RMA<sup>311</sup>, and we accept Mr Walsh's view<sup>312</sup> that given the proposed plan is subject to hearings, decisions and appeals, little weight can be afforded to the provisions of the proposed plan in our decision-making. We note for our understanding that the PDP zones the subject site Rural Lifestyle, and that it has not been identified for future urban growth, consistent with the CRPS, Our Space and the DDS.<sup>313</sup>

#### *Operative Waimakariri District Plan*

[407] The s32 assessed RCP031 against the ODP and concluded overall that proposed plan change is generally consistent with the objectives and policies of the Waimakariri District Plan, that the resultant character, amenity and environmental effects of the proposal are consistent with those sought in the WDP, and that the proposal is an appropriate means of achieving the outcomes sought by the objectives and policies of the WDP.<sup>314</sup>

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309 Evidence in chief Mr Walsh at [236].

310 s42A Report at [7.3.123]

311 Ibid at [7.3.123]

312 Request for Change to Waimakariri District Plan, Novo Group Report at [212]

313 s42A Report at [7.3.124]

314 Ibid at [7.3.123]

314 Request for Change to Waimakariri District Plan, Novo Group Report at [151 & 152]

[408] Although by its very nature this plan change seeks to include provisions which are not currently anticipated within the WDP, we are required to assess each proposed objective in the district plan (change) by the extent to which it is the most appropriate way to achieve the purpose of the Act.<sup>315</sup> Although no new objectives are proposed, we approach the assessment on the basis of whether the objectives of the plan change, to provide a master planned residential and business zoning at Ōhoka as expressed by the application is the most appropriate way to achieve the purpose of the Act.

[409] The methods and rules, including those amended by the proposed plan change are to implement the objectives and the rules (if any) are to implement the policies.<sup>316</sup>

[410] A territorial authority may include rules in a district plan for the purpose of carrying out its functions under the act and achieving the objectives and policies of the plan.<sup>317</sup> In making a rule, the territorial authority shall have regard to the actual or potential effect on the environment of activities including, in particular, any adverse effect.

[411] We are also to consider whether each proposed policy or method including each rule, having regard to its efficiency and effectiveness, is the most appropriate method for achieving the objectives of the proposal taking into account:

- (i) The benefits and costs of the proposed policies and methods (including rules); and
- (ii) The risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.<sup>318</sup>

[412] We address the matters at [435]-[454] in our s32 and s32AA evaluation of the proposal, but before doing so we have considered RCP031 in the context of the relevant

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315 ss74 (1) and s32(1)(a) RMA

316 S75(1)(b) and (c) RMA and s76 (1)

317 S76(1) RMA

318 Section 32(2)(c) RMA

policies in the WDP and the extent to which RCP031 achieves those policies, having regard to the actual and potential effects of the proposal.

[413] **Policy 8.2.1.4** seeks to avoid, remedy, or mitigate the adverse effects of activities that impede or redirect the movement of floodwater on a site, and/or exacerbate flood risk. In paragraphs [151]-[157], we found that all relevant experts reached agreement that any on-site and off-site flood risk (including groundwater resurgence as identified by many submitters) can be adequately managed, including through the subdivision consenting phase. We are therefore satisfied that the rules proposed in RCP031 implement this policy.

[414] **Policy 11.1.1.3** seeks that subdivision and development should not proceed within areas that do not have access to appropriate utilities or where the utilities are operating at full capacity. The infrastructure report provided in the applicant's plan change request confirmed that electrical power, streetlighting and telecommunications can be provided to the site, and we accept this. Further, we have earlier found that the site can be serviced with three waters infrastructure and that detailed design matters can be appropriately addressed at subdivision stage. We are therefore satisfied that rules proposed in RCP031 implement this policy.

[415] **Policy 13.1.1.4** seeks to encourage patterns and forms of settlement, transport patterns and built environment that reduces the demand for transport, provides choice of transport modes, decreases the production of motor vehicle emissions, makes efficient use of regional transport networks, reduces the rate of non-renewable energy sources, and enables opportunities for intensification and redevelopment within town centres. As discussed at [181]-[234], we find that the proposal does not reduce demand for transport, nor support transport mode choice, nor make efficient use of the transport network. On this basis, we find RCP031 does not implement Policy 13.1.1.4.

[416] **Objective 14.1.1** seeks to maintain and enhance both rural production and the rural character of the Rural Zones. We find that on the face of it, RCP031 will not maintain or enhance rural production on the site and as such the proposal is contrary to Objective 14.1.1. However, in reaching this view, we note our finding at [120]-[149], that both the current and proposed planning frameworks provide for subdivision on the site as a controlled activity into

4ha allotments and that rural lifestyle use is the most likely outcome for the site if ideal demand scenarios were realised. This would have the effect of significantly reducing the current productive capacity of the site. Any change of use from rural to predominantly residential zoning will not achieve this objective and is not determinative of this plan change as it ceases to become relevant in the event of rezoning proposals.

[417] Supporting **Policy 14.1.1.1** seeks to avoid subdivision and/or dwellinghouse development that results in any loss of rural character or is likely to constrain lawfully established farming activities. We accept Mr Willis' view that reverse sensitivity effects are a common occurrence when areas are re-zoned for urban growth and that this is a matter that is generally accommodated unless there are specific and significant nearby activities that are demonstrated to be unduly affected. We were not made aware of any such activities that would be adversely affected by reverse sensitivity effects during the hearing process. We considered the loss of rural character at [235]-[305] where on balance the positive effect of increasing housing supply and choice outweighed the adverse effects of the proposal on changes to amenity values including rural landscape character.

[418] **Objective 14.6.1** seeks to facilitate the rebuild and recovery of Greater Christchurch by directing future developments to existing urban areas, priority areas, identified rural residential development areas and MR873 for urban and rural residential activities and development. Supporting **Policy 14.6.1.1** seeks to avoid new residential and rural residential activities and development outside of existing urban areas (and priority areas within the area identified in Map A in Chapter 6 of the Canterbury Regional Policy Statement; rural residential development areas identified in the Rural Residential Development Plan and MR873). The applicant did not address these provisions in its s32 Report.<sup>319</sup> As discussed in the context of the CRPS at [398]-[399] above, there is no dispute that RCP031 does not accord with objectives and policies seeking to avoid urban development outside the urban area on Map A. However, as we have discussed in the context of the CRPS, we are directed by the higher order NPS-UD to consider plan changes that would deliver significant development capacity

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319 s42A Report at [7.3.136 &.137]

and contribute to a well-functioning urban environment, irrespective of the fact it is unanticipated by the existing plan.

[419] **Objective 15.1.1** seeks quality urban environments which maintain and enhance the form and function, the rural setting, character and amenity values of urban areas. **Policy 15.1.1.1** seeks to integrate new development, subdivision, and activities into the urban environments in a way that maintains and enhances the form, function and amenity values of the urban areas. At [235]-[305] above we found that the development proposed by RCP031 is not well integrated into the existing rural setting, nor would it maintain or enhance the form, function and amenity values of the existing Ōhoka Settlement. On this basis, we find the proposal does not implement the objective or policy.

[420] **Policy 16.1.1.1** seeks to recognise and provide for several Business Zones with different qualities and characteristics which meet the needs of people, businesses and community expectations while ensuring the town centres remain and provide the dominant location and focal point for business, social, cultural, and administration activities. As set earlier at [333]-[349], we are satisfied that the revised version of the rules proposed in RCP031, achieves those aspects of the policy concerned with managing commercial distribution and avoiding significant adverse effects on the function and viability of the Central City, Key Activity Centres and Neighbourhood Centres.

[421] **Policy 18.1.1.9** is specific to urban growth at Ōhoka settlement, and seeks to ensure that any growth and development of Ōhoka settlement it occurs in a manner that:

- *maintains a rural village character comprising a predominantly low density living environment with dwellings in generous settings;*
- *achieves, as far as practicable, a consolidated urban form generally centred around and close to the existing Ōhoka settlement;*
- *encourages connectivity with the existing village and community facilities;*
- *achieves quality urban form and function;*
- *allows opportunities for a rural outlook;*
- *encourages the retention and establishment of large-scale tree plantings and the use of rural style roads and fencing;*
- *limits the potential for reverse sensitivity effects;*
- *avoids significant flood hazards;*
- *promotes the efficient and cost-effective provision and operation of infrastructure;*
- *recognises the low lying nature of the area and the need to provide for stormwater drainage; and*

- *ensures that any residential development occurring in the Ōhoka settlement does not increase the flood risk within Ōhoka and adjoining areas.*

[422] The explanation to Policy 18.1.1.9 states:

Growth of Ōhoka settlement, defined by the Residential 3, 4A and 4B zones, is constrained by the need to ensure that any future residential development maintains its rural village character. This is most likely to be achieved by consolidating growth around or adjacent to the existing urban area and ensuring that development complements the existing low density rural residential environment. A consolidated growth pattern will provide opportunities for establishing connections with the existing settlement and community facilities, including the Ōhoka School. This form of development is also anticipated to promote the efficient provision of reticulated water and wastewater infrastructure and reduce the potential for reverse sensitivity effects on surrounding rural activities.

[423] At [235]-[305], we found that the proposal for approximately 850 allotments does not represent low density living as anticipated by Policy 18.1.1.9<sup>320</sup> and as such would significantly and negatively impact the existing village character and would not contribute to a consolidated urban form for Ōhoka. As such we find the proposal does not achieve Policy 18.1.1.9. The applicant has not requested any change to this policy which specifically addresses the form and function of Ōhoka but rather seeks to adapt the explanation and reasons to fit RCP031.

*Consistency with the plans of adjacent territorial authorities*

[424] Section 74(2)(c) of the RMA requires an assessment of the extent to which the District Plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.

[425] We have not received a detailed consistency assessment from either the applicant or s42A author. Mr Walsh stated that the proposal does not involve any cross-territorial issues.<sup>321</sup> Mr Willis considered it unlikely that a consistency assessment would be determinative.<sup>322</sup> We are prepared to accept this evidence and record that we did not hear any matters raised during the hearing that would lead us to a different conclusion.

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320 The explanation to Policy 18.1.1.9 states that the type of growth and development required to maintain the rural village character of Ōhoka is that of low density living, where dwellings are situated within generous settings comprising an average lot size of between 0.5-1.0 hectare.

321 Request for Change to Waimakariri District Plan, Novo Group Report at [156]

322 s42A Report at [7.3.149]

## Part 2 matters

[426] RCP031 must accord with and assist the territorial authority to carry out its functions so as to achieve the purpose of the Act.<sup>323</sup>

[427] Part 2 sets out the purpose of the RMA (section 5), matters of national importance that must be recognised and provided for (section 6), other matters that particular regard is to be had to (section 7), and taking into account the principles of the Treaty of Waitangi (section 8).

[428] With regard to section 6 we agree there are no matters of national importance which are directly relevant to this site and to this proposal that are not otherwise addressed in the relevant national policy statements discussed above.

[429] Section 7 relates to the matters to which we are to have particular regard to, including 7(b) the efficient use and development of natural and physical resources, 7(c) the maintenance and enhancement of amenity values, 7(f) the maintenance and enhancement of the quality of the environment. Having considered all the evidence presented through the application and hearing process, we have found overall that the proposal does not represent an efficient use and development of natural and physical resources.

[430] Section 8 requires that we take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). The applicant has engaged with agents supporting mana whenua and has incorporated a number of recommendations in the overall design. We are satisfied that the proposal adequately addresses the duty to consult and actively protect natural resources identified as being of importance to mana whenua and we have taken into account the outcomes of that engagement in our evaluation of RCP031.

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323 s74(1)(a) and (b) RMA

## Section 32 and 32AA Evaluation

[431] The applicant prepared a s32 evaluation of the proposal as part of the application. Mr Walsh led that assessment and concluded that there were minimal uncertainties with regard to the application and risks of acting, He considered the plan change was the most appropriate outcome. However, he acknowledged at the hearing that the assessment was premature, given the information that had come to light in the evidence of others before and during the hearing, particularly in relation to flooding, transport matters and stormwater and drinking water infrastructure. He explained that RCP031 was prepared under time pressure to coincide with the notification of the proposed plan. The consequences of which have been that a number of new rules and changes to the proposed ODP (as notified) have been presented during the hearing, culminating in the final revised version in Appendix 4.

[432] At the conclusion of the hearing Mr Walsh maintained that RCP031, having regard to its efficiency and effectiveness, is the most appropriate method for achieving the objectives of the proposal taking into account:

- (i) The benefits and costs of the proposed policies and methods (including rules); and
- (ii) The risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.<sup>324</sup>

[433] While we appreciated the candidness of Mr Walsh in response to our questions, we note that he did not provide a comprehensive revised s32 analysis in his evidence to address changes to the proposal (as required by s32AA), rather his evidence focused on rebutting the matters raised in the s42A reports and submitter evidence. He proposed amended rules, including rules requiring future exercise of discretion at the time of subdivision to fill the gaps. No further s32AA evaluation was offered in support of these changes.

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<sup>324</sup> Evidence in chief of Mr Walsh at [258] –[260].



[434] The original s32 evaluation included a supporting economic assessment prepared by Mr Copeland from Brown, Copeland and Co Limited, however, the assessment is based on the original proposal and narrow assessment of transportation matters and flooding effects.

[435] The economic assessment undertaken by Mr Copeland provided a largely qualitative assessment of benefits and costs of the proposal. The benefits of more employment, wages, salaries, relative to the rural land use is not challenged in any substantive way in the s42A Report, which included an assessment of costs and benefits of the plan change prepared by Formative (Mr Yeoman and Mr Foy). It was also accepted by Mr Yeoman that RCP031 would deliver significant development capacity.

[436] The costs were also not quantified by the applicant. Mr Yeoman and Mr Foy identified costs related to the loss of agricultural production, infrastructure costs, transportation costs and impacts on well-functioning urban environments and amenity.

[437] The applicant did not call Mr Copeland at the hearing but instead called Mr Akehurst who disagreed with the conclusions in the Formative report, however, he focused his critique on the modelling work undertaken by Formative to assess available development capacity within the district. He disputed Formative's assessment on the impact on price outcomes and affordability. We have accepted that RCP031 at a yield of 850 or 250 allotments would be numerically significant, and that it will increase supply in the market of single dwelling homes on larger allotments in a rural setting. We have accepted that this is a benefit of rezoning.

[438] There is broad agreement between Mr Akehurst and Formative that the modelled loss of agriculture and horticulture is relatively small, but not zero, relative to total agricultural production of Waimakariri.<sup>325</sup>

[439] We accept on the evidence we received from Mr Bacon that the availability of development contributions, and possible developer agreements is such that the costs of the development, over and above those which benefit ratepayers more generally can be

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325 Evidence in chief Mr Aekhurst at [201]

appropriately addressed at subdivision stage and would be designed not pose additional infrastructure costs on the community, however, the extent of costs associated with congestion, greenhouse gas emissions are less easily quantified, or accounted for. We also note that the applicant did not identify improvements to the Tram Road/SH1 interchange in the initial s32 report, has not engaged with Waka Kotahi, and has not provided any further evaluation under s32AA regarding such costs or the risk of improvements not taking place.

[440] Formative identified the applicant had not quantified GHG emissions or transportation costs. Further evidence was provided by Mr Farrelly which we have discussed above at [208] – [210].

[441] Mr Akehurst's response to Formative's assessment was to conclude that Formative have erred in comparing the site with other locations of urban capacity where future residents of RCP031 might otherwise have lived if RCP031 were refused. Mr Akehurst on the other hand has relied on the likely shortfall of residential capacity in the district in the medium and long terms which he said this means that there is not a counterfactual scenario where the actual transport costs are lower than for RCP031 because there may not be alternatives in the larger townships to accommodate those future households.

[442] Formative also rely on the lack of public transport, and Mr Akehurst's response is that the current lack of houses does not support public transport and that public transport routes will adapt to the development pattern.

[443] We do not accept Mr Akehurst's characterisation or evaluation of the costs associated with lack of public transport in this largely rural location. We have concluded that adequate public transport alternatives are unlikely in the medium term, and even if limited services were feasible in the longer term, the location of RCP031, would suggest that they are unlikely to be at a level that would significantly reduce the reliance on private motor vehicles. Further, the NPS-UD emphasises the importance of existing or planned public transport as a key part of a well-functioning urban environment. Mr Akehurst's approach is contrary to that policy approach.

[444] At the conclusion of the hearing, Mr Walsh presented a potential alternative reduced ODP. Although this was not presented as the applicant's proposal, it was provided to us in the event we considered that a smaller development was to be preferred, particularly in response to the evidence on the effects of rural character presented by Mr Goodfellow. We also note that the smaller ODP area is potentially worth consideration given the lack of certainty arising from the need for upgrading to the Tram Road/SH 1 interchange, however, it is even less likely to support public transport alternatives, the timing of a local commercial offering is unknown, and the prospect of the addition of a school and retirement village is also unknown at a reduced scale.

[445] Mr Akehurst assessed the potential of 250 allotments as still being significant development capacity in light of the shortfalls he has identified.

[446] We asked Mr Walsh to explain the difference between the full proposal and the reduced scale, in light of the matters in s32, particularly the requirement for us to have regard to the risk of acting or not acting.<sup>326</sup> Ms Appleyard provided a record of Mr Walsh's oral response as Appendix 5 to her supplementary closing legal submissions. We understood that Mr Walsh was of the opinion that the primary risks of not approving RCP031 in its entirety was the lost opportunity in providing for increased housing capacity and the benefits of commercial services and retail activities in Ōhoka.

[447] In the absence of a comprehensive revised s32 and 32AA analysis from the applicant we have had particular regard to the benefits and costs, the efficiency, effectiveness and overall appropriateness of RCP031 in the context of the planning framework and the changes put forward by the applicant during the hearing. Many of the changes proposed did provide us with further certainty of outcomes, particularly those related to addressing ecological values (protection of the springs and protection of enhancement of waterways and wetlands) ensuring risks of three waters infrastructure delivery and local roading improvements are fully considered at subdivision stage and managing commercial distribution effects.

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326 Section 32(2)(c) RMA

[448] We have concluded that there is insufficient certainty that the development yield of 850 allotments could be achieved in the medium term due to the limitations of the Tram Road and SH 1 interchange. We have also determined that drawing a conclusion as to whether the outcomes sought by RCP031 (beyond 250 allotments) could be achieved in the longer term, would be a purely speculative exercise (notwithstanding that in and of itself RCP031 at 250 allotments has the potential to provide significant development capacity if the Council finds itself with a shortfall).

[449] Overall, we have been unable to conclude on the evidence provided that the benefits of the full proposal, or the reduced scale ODP, of providing significant development capacity (in the context of a likely District shortfall in the medium term) outweigh the costs of locating development in an area that is not served with existing or planned public transport and does not support active transportation alternatives. The location of RCP031 would be reliant on private vehicle use and would not support a reduction in greenhouse gas emissions.

[450] We find that taking a “suck it and see” approach to the potential for public transport alternatives is not the most appropriate method given the objectives and policy direction in the NPS-UD, CRPS and WDP which, although using different language, all seek well-functioning urban environments, that are well connected to transportation corridors and a reduction of greenhouse gas emissions. The lack of certainty regarding the need for upgrades to the Tram Road/SH 1 interchange, public transport and the unlikely use of active transport modes in this location also makes it inappropriate to approve the plan change.

[451] We have considered the risk of not acting. We were cautioned by Ms Appleyard not to simply “kick the can down the road”, however, the planning context is relevant. There are positive actions required by the Council to address the potential shortfall identified by the applicant, including, alerting the Minister, addressing the issue on a district wide basis under the current plan review (which the applicant advised they were actively pursuing via a rezoning request), and an indication that the CRPS is due to be reviewed. We agree with Mr Yeoman when he said there is time to address any capacity shortfall, even if the WCGM22 overestimates capacity.

[452] We have considered the issue of whether, if declined, the site would simply be developed for rural lifestyle (an outcome that is currently anticipated by the operative and proposed plans), resulting in a loss of rural productivity and inefficient housing outcomes. We consider that the risks of simply saying yes to RCP031 because a large area of contiguous land is on the market and it can be overlaid with a well-designed ODP, is not sufficient to overcome the national policy directives with regard to planning decisions not only contributing significant development capacity but also contributing to well-functioning urban environments. We have assessed RCP031 as being part of the urban environments of Waimakariri District and Greater Christchurch. For the reasons set out above we have concluded RCP031 does not contribute to a well-functioning urban environment of Waimakariri District or Greater Christchurch.

[453] We therefore conclude that approving RCP031 in light of those uncertainties is not an efficient or effective way to achieve the objectives of the proposal and is not the most appropriate way to achieve the purpose of the Act.

## **8. DECISION**

[454] We have considered in some detail the principal issues around the suitability of land for urban development, provision of infrastructure, transportation, and urban design and urban form. We have also carefully considered the need for additional residential zoning, the responsive planning framework and associated requirements of the NPS-UD, the application of the NPS-HPL, the CRPS and the objectives of the WDC.

[455] We have found that RCP031 does not give effect to the NPS-UD and CRPS.

[456] Having addressed the requirements of s32, 32AA, 74,75 and 76 of the RMA, we find that RCP031 is not the most appropriate means to achieve the purpose of the Act.

[457] For the reasons given in this report we decline RCP031 and accept, accept in part, reject or reject in part the submissions and further submissions as recommended in Appendix 2 to the s42A Report.

Dated this 27<sup>th</sup> day of October 2023



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Cindy Robinson  
Chair  
Independent Hearings Panel



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Ros Day- Cleavin  
Panel Member  
Independent Hearings Panel

Appendix 1 – Applicant's witnesses

Name	Expertise/Subject
Jo Appleyard	Counsel for Applicant
Tim Carter	Applicant
Bas Veendrick	Water resources
Chris Jones	Real Estate
Chris Sexton	Civil Engineer - GIS
Dave Compton-Moen	Urban Design
Garth Falconer	Urban Design and Landscape
Gary Sellars	Valuation
Greg Akehurst	Economics
Natalie Hampson	Economics
Nick Fuller	Transport
Nicole Lauenstein	Urban Design
Simon Milner	Public transport
Tony Milne	Landscape
Mark Taylor	Ecology
Ben Throssell	Engineer – water resources
Carl Steffens	Engineer – water resources

Eoghan O'Neill	Stormwater and wastewater
Dr Gabrielle Wall	Education
Laura Drummond	Ecology
Paul Farrelly	Greenhouse Gas Emissions
Tim McLeod	Civil Engineer
Tim Walsh	Planner
Victor Mthamo	Versatile Soils

## Appendix 2 – Submitter attendance

Evidence No.	Submitter	
23	204	Anna Arps representing: Kathie & Matt Nicolson Anna & Brent Arps Stacey & Jono Tee Deborah & Graeme Willis Belinda Turnbull & Larry Owens Sarah & Matt Jolene & Rod Stephanie & Shane Berry Gary & Jeanette Tee Judith & Mike Tucker Marinde Vermaat & James Rawsthorne
23	205	Anna Arps
-	431 / FS5	Ohoka Residents Association Presented by David Nixon
-	223	Mark Leggett
24	592, 634, 633, 632	Dominie (Nicki Kilner)
-	262	Brian and Barbara Chambers
-	103 FS4	Arthur Simmonds (not able to attend) Presented by Levina Joris
34	105	Levinea (Lilybeath) Joris
15	107	Mary (Helen) Sparrow
-	436	WJ Winter & Sons Ltd Dave & Des Winter
7	325, 328, 407	Rosin Magee
2	609	Tim Curran & Expert - Professor Peter Almond
9	135	Phillipa Driver
8	638	Niki Mealings
14	370	Oxford Ohoka Community Board Presented by Sarah Barkle & Thomas Robson
22	166	Roger Foy
12	502	Russell Pegler
10	260	Janet Hadfield Counsel: Lloyds Scully
11 (tabled)	193 (194, 288, 133,385, 384)	The Jones Family
5	191	Transpower Ainsley McLeod – Planner
16	551	Mandeville Village Partnership Ray Edwards
18	231	Ngairie Borlase
21	425	David & Marilyn Ayers



20	637	David Stringer
13	606	Grant Edge
-	50	Angela Gibbs
32	640 & 283	John & Christine Docherty
-	134	John Lynn
35	40	Pip Trumic
25	249/287	Edward and Justine Hamilton
	270, 336	Tina Dudley
-	458	Richard North
16	251	Ohoka Rural Drainage Advisory Group Doug Nichols – Chair
3	507	Environment Canterbury Counsel – I Edwards Joanne Mitten, Planner Ben Wilkins, Groundwater Scientist Callum Margetts, Natural Hazard Scientist Leonard Fleete, Senior Strategy Advisor Public Transport Greg Burrell Scientist
36	258	Bev Shepherd Wright John Wright
-	505	Lincoln Rayner
26	562	Sara & Grant Wells - Tom & Sam Wells
27	67/96	Richard Luisetti
-	351/435	Alan Hemmings, and on behalf of Christine Hemming
31	125	Mike Meade
28	416, 452, 377, 411	Angela Low Richard Low Emmerson Low Soren Low
4	216	Waimakariri District Council Counsel: A Schulte N Boyes – Planner A Metherall – Traffic S Bishop – Three Waters R Knott – Urban Design K Goodfellow – Landscape
1	154	Fire and Emergency NZ

Appendix 3 – Section 42A Report Writers and Expertise

Name	Evidence
Mr Willis	Planning – S42A lead author
Mr Ford Agriculture & Resource Economist	Productivity Assessment – Rural Productive Evidence
Mr Yeoman Specialising in economic, social, and urban form	Economic Review Evidence
Mr Bacon Team Leader Network Planning Waimakariri District Council	Natural Hazards Evidence
Mr Roxburgh Project Delivery Manager Waimakariri District Council	3 Waters Servicing Evidence
Mr Binder Senior Transportation Manager Waimakariri District Council	Transport Evidence
Mr Nicholson	Urban Design and Landscape Evidence

## Appendix 4 – Applicant’s Final Revised Provisions

# Appendix 6

## OUTLINE DEVELOPMENT PLAN – ŌHOKA

### Introduction

The Ōhoka Outline Development Plan ('ODP') provides for a comprehensive and carefully considered expansion of Ōhoka. The area covers approximately 156 hectares extending in a southwest direction from Mill Road and bounded on either side by Bradleys Road and Whites Road.

Key features of ODP area include:

- a village centre providing local convenience goods and services for residents and a small village square for community events/gatherings,
- provision for approximately 850 residential units, a school, and a retirement village (if a school is not developed, approximately 42 additional residential units could be established),
- provision for a polo field and associated facilities,
- a green and blue network providing for movement, recreation, and ecological enhancement of waterways, and
- high amenity streets appropriate for the rural setting.

All requirements specified below are to be designed/coordinated to the satisfaction of Council prior to approval of any subdivision consent application.

### Land Use Plan

The development area shall achieve a minimum net density of 12 households per hectare, averaged over the Residential 2 zoned land. The zone framework supports a variety of site sizes to achieve this minimum density requirement. Staging is required to ensure the ODP area develops in a logical and appropriate manner in recognition of the current urban form of Ōhoka. Staging will proceed from the Mill Road end towards the southwest. Ōhoka Stream forms the first line of containment, the realigned and naturalised spring channel forms the second line, Ōhoka South Branch the third, and Landscape Treatment B the last.

Confirmation at the time of subdivision of each stage, and an assessment as to how the minimum net density of 12 households per hectare for the overall area can be achieved, will be required.

Residential activities are supported by key open spaces, waterbodies, and two small commercial centres, the larger of which is to become part of the village centre of Ōhoka. These commercial centres will provide good accessibility and help to meet some of the convenience needs of residents in the immediate area. Car parking within the village centre can provide a public transportation hub via the provision of park and ride services. It can also provide for ride sharing. The parking area will be of a high amenity standard enabling it to be integrated into a village square to provide additional hard surface area when required for community events, as well as providing for parking for the Ōhoka farmers market at the neighbouring Ōhoka Domain. Provision is also made to host the Ōhoka farmers market during winter months when ground conditions in the domain are unsuitable.

Provision is made for educational facilities in the area immediately adjoining the larger of the two commercial zones on Whites Road on the south side of the Ōhoka Stream. The prospect of developing such facilities will be subject to a needs assessment according to the Ministry of Education processes. If the Ministry decides that educational facilities are not required, additional residential properties will be developed at a minimum net density of 12 households per hectare.

Residential development shall retain rural village characteristics within the street environments and along property boundaries. Development controls and design guidelines specific to the development area shall be prepared and submitted to Council for approval. The guidelines will ensure that development is of the quality and character required to maintain the rural village character of Ōhoka. An independent design approval process will be established and most likely administered by a professional residents' association which would appoint an architect and landscape architect to review and approve proposals to demonstrate compliance with Rule 31.1.1.9A of the District Plan.

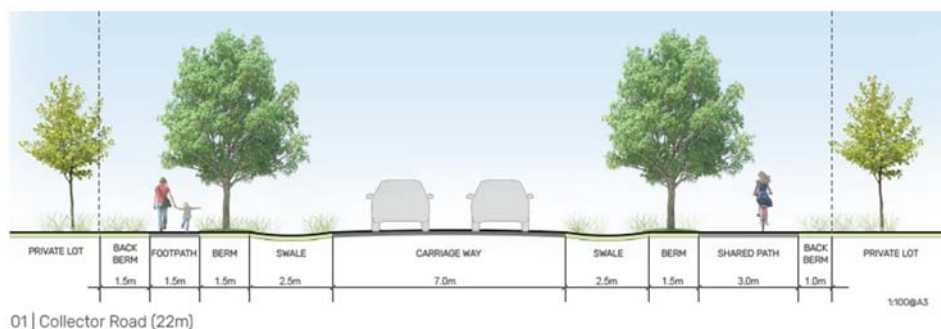
## Movement Network

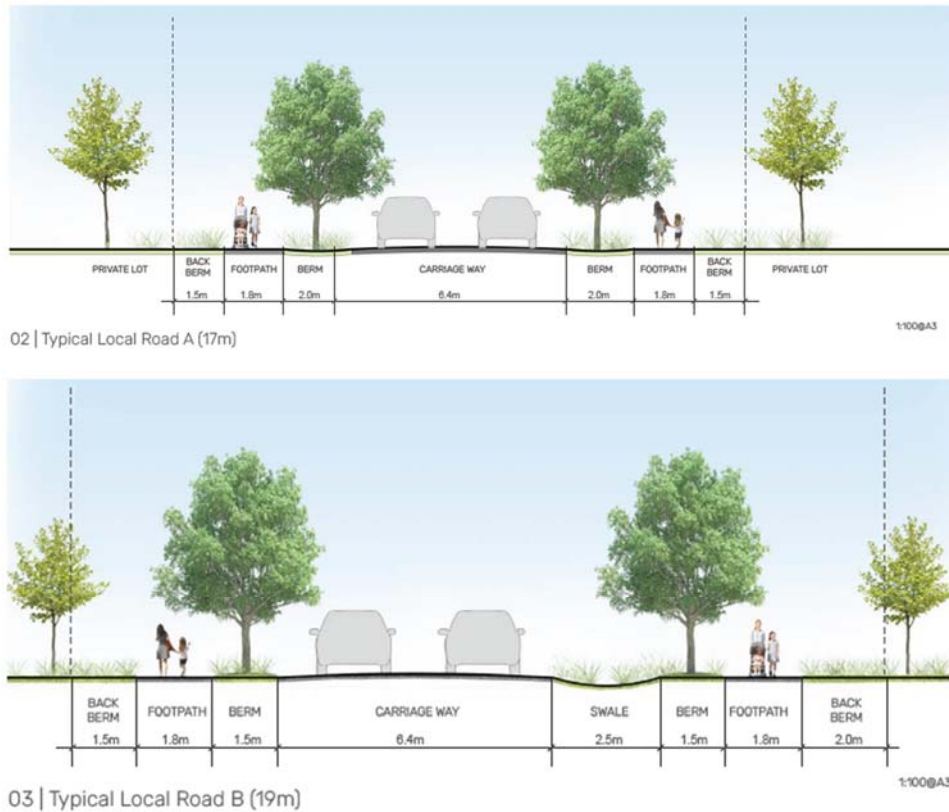
A road network and classification for the ODP site shall be developed that, together with the green network, delivers a range of integrated movement options. A key design principle of the movement network shall be facilitating movement towards the village centre and within the ODP site, particularly on foot or bicycle. In recognition of the character of the Ōhoka setting, several specific road types within the ODP area shall be developed with varying widths and layouts depending on the function and amenity. These are to be developed in collaboration with Council at subdivision consenting stage. Indicative cross-sections of the street types are shown in Figure 1.

Gateway treatments are located at the intersection of Mill Road and Bradleys Road, and on Whites Road at the intersection of Ōhoka Stream. The Mill Road / Bradleys Road gateway is directly at the intersection with a hard contrast from flat open rural land to a built-up edge supported by the verticality of landscape treatment. The Whites Road gateway will use the Ōhoka Stream as a distinct design feature. Combined with specific landscape treatment and bespoke design details, such as lighting and signage, this will create a strong rural gateway. The existing 100km/hr speed limit would ideally reduce to 60km/hr from the Ōhoka Stream gateway. There are potential minor traffic thresholds proposed at the southern boundaries of the ODP area at both Bradleys Road and Whites Road. The speed limit would ideally reduce to 80km/hr on Bradleys Road and Whites Road alongside the ODP frontage (outside the gateways). Regardless, two pedestrian/cycle crossings are to be provided across Whites Road, one near the Ōhoka Stream and the other near the commercial area.

The road classification shall deliver an accessible and coherent neighbourhood that provides safe and efficient access to the new development. The movement network for the area shall integrate into the existing and proposed pedestrian and cycle network beyond the ODP area. A 2.5m wide shared path is proposed with the Landscape Treatment Area A along Whites Road and Bradleys Road. Wherever possible, other bicycle and pedestrian routes shall be integrated into the green network within the ODP area. Cycling and walking shall otherwise be provided for within the road reserve and incorporated into the road design of the overall road network where applicable. Adequate space must be provided to accommodate bicycles and to facilitate safe and convenient pedestrian movements. The management, design and/or treatment of roads within the subdivision shall achieve an appropriately low-speed environment, accounting for the safety and efficiency of all road users.

Trees in the road reserve will assist in reducing the perceived width of the road corridors and provide a sense of scale. Further, the street trees will break up the roof lines of the denser areas and provide shade and texture. The trees may be located between carriageway and footpaths on larger roads, and closer to the carriageway on smaller roads. Swales will also assist in softening the road appearance, along with providing stormwater treatment. Aside from the functional aspects, the different street environments will significantly contribute to differentiating the ODP area from the typical suburban character found in the main centres of the District.





**Figure 1: Indicative road cross-sections**

The ODP provides road links to Mill Road, Bradleys Road and Whites Road. These intersections will be priority-controlled with priority given to the external road network. Direct vehicular access to private properties can be provided to Mill Road. Otherwise, no direct vehicular access to Bradleys Road and Whites Road is provided.

Consideration shall be given to whether the development warrants minor works to carriageways and roadside hazards, including roadside signage and/or line markings, on Whites and Bradleys roads (on the stretches between Tram Road to Mill Road), Mill Road (where impacted by the development) and Threlkelds Road. Further, consideration shall be given to whether and what (if any) interim safety improvements are required at the Tram Road / Whites Road intersection. Examples of the types of improvements that may be required include visibility splay / sightline improvements, improved signage on the approaches, and/or Rural Intersection Activated Warning Signs. Any required improvements shall be implemented prior to occupation of dwellings and commercial buildings.

### **Water and Wastewater Network**

Water reticulation is to be provided by the establishment of a new community drinking water scheme. A site of approximately 1,000m<sup>2</sup> will be provided within the development for water supply headworks infrastructure including treatment plant, storage reservoirs and reticulation pumps. Fire-fighting flows to FW2 standards will be provided for Residential 2 and business-zoned properties. Hydrants will be provided for emergency requirements within the large lot property areas, zoned Residential 4A, in a similar manner to the neighbouring Mandeville and Ōhoka areas.

Wastewater will be reticulated to the Rangiora Wastewater Treatment Plant either via gravity reticulation or a local pressure sewer network or a combination of both. A new rising main connecting the development to the treatment plant is likely to be required.

### **Open Space, Recreation and Stormwater Management**

The green network combines the open space, recreational reserves including pedestrian connections, and stormwater management throughout the ODP area. The green network largely follows waterways and provides access to open space for all future residents within a short walking distance of their homes. Pedestrian and cycle

paths will integrate into the green network to ensure a high level of connectivity is achieved, and to maximise the utility of the public space.

Detailed stormwater solutions shall be determined by the developer at subdivision stage and in accordance with Environment Canterbury requirements. Stormwater management facilities shall be designed to integrate into both the movement and open space networks where practicable. Groundwater monitoring will assist in the design of the stormwater management facilities.

The stormwater solutions shall be cognisant of a 26-hectare area adjacent the Whites Road boundary that cannot be attenuated. The stormwater solutions for development of the site shall demonstrate hydraulic neutrality up to the 50-year event. If neutrality cannot be achieved, the density of development within the 26-hectare area may need to be reduced.

The proposed green and blue network provides an opportunity to create ecological corridors. Plant species in the new reserves and riparian margins shall include native tree and shrub plantings. The plant species selection process shall involve consultation with local Rūnanga. The green network will ensure that dwellings are setback an appropriate distance from waterbodies.

### **Supporting reductions in greenhouse gas emissions**

To support reducing greenhouse gas emissions, district plan rules require additional tree planting on all residential properties and at least 15% of site area to be planted in native vegetation on larger properties. Further, all dwellings shall be required to be electric vehicle charging ready. This is to be enforced through developer covenants.

### **Character and amenity through landscape and design**

The character of Ōhoka is strongly reliant on landscaping, in particular trees, in both public and private environments. The landscape treatment of the waterway margins may include large specimen trees, but will mostly be comprised of planted natives. Space for street trees is to be provided on both sides of all road types and are to be placed strategically to create an organic street scene avoiding a typical suburban street appearance. Additional tree planting is required on private properties via district plan rules.

An overall planting strategy is to be developed for the ODP site at subdivision consent stage.

Specific measures to protect and enhance landscape values will be addressed at the time of subdivision, and development within the ODP area shall include:

- a. An assessment by a suitably qualified and experienced arborist, guided by a suitably qualified terrestrial ecologist, that:
  - i. Identifies trees that are to be retained and integrated into the development
  - ii. Specifies protection measures during construction to ensure survival of selected trees

To further support the distinct village character of Ōhoka, street furniture, lighting and all other structures in the public realm are to reflect the rural characteristics with regard to design, type, scale, material and colour. In particular, street lighting shall be specified to minimise light spill and protect the dark night sky. These can be considered as part of the development controls and design guidelines mentioned previously.

### ***Landscape Treatment A***

Landscape Treatment A shall be designed to assist in retaining a rural character along Whites and Bradley Roads and to screen development from public and private vantage points outside the ODP area. It shall consist of a 1.5-metre-wide grass strip at the site boundary with an adjoining 2.5-metre-wide gravel path and a 10-metre-wide native vegetation strip in the location identified on the ODP and include a post and rail fence or post and wire fence on the road side of the vegetation. Solid fencing within this strip is not permitted. This is combined with a 20m building setback, consistent with setbacks required in the rural zone.

The planting is to consist of the following species, or similar, planted at 1000mm centres to achieve a minimum height of 5m once established:

- *Griselinia littoralis*, Broadleaf;
- *Cordyline australis*, Ti kouka;
- *Pittosporum tenuifolium*, Kohuhu;
- *Podocarpus totara*, Totara;
- *Phormium tenax*, Flax;
- *Dacrycarpus dacrydioides*, Kahikatea;
- *Sophora microphylla*, SI Kowhai;
- Korokia species; and
- *Cortaderia richardii*, SI Toetoe.

### **Landscape Treatment B**

Landscape Treatment B, as indicated on the ODP, shall be designed to provide a visual buffer between the ODP site and adjacent rural land to the southwest. The treatment shall consist of retention of the existing shelter belts running along the southern boundary of the ODP site and planting a 6m wide landscape strip consisting of either (or a mix of) the following trees, or similar, to achieve a minimum height of 5m with trees at a maximum spacing of 2000mm:

- *Pinus radiata*, Pine;
- *Cupressus Arizona*, Arizona cypress;
- *Chaemaecyparis lawsoniana*, Lawson's Cypress;
- *Populus nigra*, Lombardy Poplar;
- *Podocarpus totara*, Totara (native);
- *Pittosporum eugenioides*, Tarata (native);
- *Phormium tenax*, Flax;
- *Prunus lusitanica*, Portuguese laurel; and
- *Griselinia littoralis*, Kapuka / Broadleaf (native).

### **Landscape Treatment C**

Landscape Treatment C is proposed to be located toward the northern extent of the ODP area and act as a buffer between the ODP area and the existing Ōhoka Village properties on the southern side of Mill Road. The treatment shall be a planted single row consisting of one of the below species, or similar, along the shared internal boundaries to achieve a minimum established height of 4m and a width of 2m, planted at a maximum spacing of 1500mm (within a 6m wide strip). This relates to the internal boundaries of 290 and 344 Bradleys Road; 507, 531 and 547 Mill Road; and 401 Whites Road.

- *Prunus lusitanica* (Portuguese Laurel)
- *Pittosporum eugenioides* (Tarata, Lemonwood)
- *Pittosporum tenuifolium* (Kohuhu, Black Matipo)
- *Griselinia littoralis* (Broadleaf)
- *Kunzea ericoides* (Kanuka)
- *Leptospermum scoparium* (Maunka)

### **Approval, Implementation and Maintenance**

All proposed planting within Landscape Treatments A, B and C and the green and blue networks will be **is** subject to Council approval. A landscape management plan shall be developed to ensure a successful outcome and provided for approval at Engineering Approval Stage. The plan will provide direction on the establishment of planting, weed and pest control, replacement planting, irrigation and maintenance. The landscape maintenance period shall extend for five years following implementation.

### **The National Grid**

The National Grid Islington – Southbrook A (ISL-SBK-A) 66kV transmission line traverses the site. The line starts at the Islington Substation in Christchurch and extends through the Christchurch, Waimakariri and Hurunui



districts. The following matters will assist in ensuring the ability for Transpower to operate, maintain, upgrade and develop the National Grid is not compromised by future subdivision and land use.

### ***Consultation***

Transpower shall be consulted as part of any application for subdivision consent affecting the National Grid. Evidence of this consultation shall be provided to Council as part of any subdivision consent application.

### ***Planting and maintenance of landscaping beneath the National Grid***

Any landscaping in the vicinity of the National Grid shall be designed and implemented to achieve compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) and the Electricity (Hazards from Trees) Regulations 2003, including when planting reaches maturity.

### **Water Bodies and Freshwater Ecosystems**

The ODP area contains several waterbodies with varying characteristics. Development of the ODP area provides potential for higher ecological values to be re-established through restoration and enhancement. This could include protected reserve space, native planting, naturalisation, and instream enhancement. Development shall protect and enhance selected water bodies and freshwater ecosystems within the ODP area and incorporate these features into the wider green and blue network of the site.

In terms of specific measures to be addressed at the time of subdivision in order to protect and enhance freshwater values and ecosystems, development within the ODP area shall:

- a. Include an assessment by a suitably qualified and experienced practitioner that:
  - i. Provides the results of groundwater and spring water level and spring flow monitoring across the site to inform the construction methodologies that are applied in different parts of the site; and
  - ii. Specifies construction measures to ensure that shallow groundwater is not diverted away from its natural flow path for those areas where the shallow groundwater (in water bearing seams or layers) is likely to be intercepted by service trenches and hardfill areas.
- b. Be in accordance with an Ecological Management Plan prepared by a suitably qualified and experienced practitioner that, as a minimum, includes:
  - i. Plans specifying spring head restoration, riparian management, waterway crossing management, and segregation of spring water and untreated stormwater.
  - ii. Aquatic buffer distances, including minimum waterbody setbacks for earthworks and buildings of:
    - 30 metres from the large central springhead and Northern Spring head identified on the ODP.
    - 20 metres from the Ōhoka Stream and Groundwater Seep origin.
    - 15 metres from Northern and Southern Spring Channel and South Ōhoka Branch.
    - 10 metres from the Groundwater Seep channel.
    - 5 metres from the South Boundary Drain along the furthest southwest boundary of the ODP area.Any additionally identified springs shall be assessed to determine the appropriate aquatic buffer distance.
  - iii. Ongoing maintenance and monitoring requirements that are to be implemented, including groundwater level, spring water level and spring flow monitoring.
- c. Maintain the perennial course of the lower Southern Spring Channel.

- d. Possible re-alignment of the Northern Spring Channel baseflow into the Southern Spring Channel downstream of the spring-fed ponds. Both channels are perennial and could be meandered and naturalised.
- e. Possible meandering and naturalisation of the Groundwater Seep.
- f. Riparian planting plans with a focus on promotion of naturalised ecological conditions, including species composition, maintenance schedules, and pest and predator controls.
- g. Stream ecology monitoring (i.e., fish, invertebrates, instream plants and deposited sediment surveys).

The aquatic buffers shall be protected by appropriate instruments (whether that be esplanade reserves/strips, recreation reserves or consent notice condition imposed setbacks) at the subdivision consent stage. Further, landscape design drawings of stream setbacks are to include input and approval from a qualified freshwater ecologist, with a minimum of the first 7 metres of the spring and stream setbacks to be reserved for riparian vegetation only, with no impervious structures and pathways as far as practicable away from the waterway.

### **Cultural**

The importance of natural surface waterbodies and springs to Manawhenua is recognised and provided for by the ODP and the specific measures described above in respect of waterbodies and freshwater ecosystems that will support cultural values associated with the ODP area. The Ngāi Tahu Subdivision and Development Guidelines shall be referred to throughout the subdivision design process with guidance adopted where practical/applicable.

For all earthworks across the site, an Accidental Discovery Protocol will be implemented at the time of site development, in addition to appropriate erosion and sediment controls, to assist in mitigating against the potential effects on wahi tapu and wahi taonga values generally.

### **Detailed Site Investigation**

Due to the previous agricultural land use including the storage and spreading of dairy effluent, a Detailed Site Investigation shall be carried out at subdivision consent stage. This investigation will identify what (if any) remediation is required to satisfy the requirements of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.

The plan change request proposes the following changes to the Waimakariri District Plan:

1. To amend the Waimakariri District Plan Planning Maps, by rezoning the site to Residential 2, Residential 4A and Business 4.
2. To amend Waimakariri District Plan Planning Maps, by inserting the Outline Development Plan.
3. To amend the District Plan provisions as below (changes underlined or struck through, with a change indicated during the hearing on 11 September 2023 emphasised in red text).
4. Any other consequential amendments including but not limited to renumbering of clauses.

## **Objectives and Policy**

### **Definitions**

INSERT NEW DEFINITION

#### Educational facilities

means land or buildings used for teaching or training by childcare services, schools, or tertiary education services, including any ancillary activities.

### **16 Business Zones**

AMEND POLICY

#### *Policy 16.1.1.1*

...

*Reason*

...

*The Business 4 Zone provides for activities existing at 20 June 1998, and limited future expansion of retail and business activities with similar effects on the southwestern corner of Williams and Carew Streets in Kaiapoi (District Plan Maps 104 and 105), and the Lilybrook Shops on the corner of Percival Street and Johns Road, Rangiora (District Plan Maps 113 and 117). This zoning recognises the commercial zoning that these sites enjoyed under the Transitional District Plan. The Business 4 Zone also provides for a local community business zones at West Kaiapoi (District Plan Map 104), ~~and~~ within the Mandeville North settlement (District Plan Map 182) and at Ōhoka (District Planning Map 185).*

INSERT NEW POLICY

#### Policy 16.1.1.12

Provide for retail and business activities in the Ōhoka Business 4 Zone, in a way that:

- a) maintains the characteristics of the Ōhoka settlement as set out in Policy 18.1.1.9;
- b) provides for limited business activities to provide for day-to-day convenience needs of the local community, is designed to achieve high quality urban design principles and a high standard of visual character and amenity; and

c) limits retail distribution effects on the nearby Business 4 Zone at Mandeville North.

## AMEND

### Principal Reasons For Adopting Objectives, Policies and Methods 16.1.4

...

*The Business 4 Zone enables site-specific areas of existing retail and business activity located outside of the Kaiapoi and Rangiora town centres. The effects of activities are known for those already developed, including those impacting on adjoining residential areas. Activity and development standards constrain the scale and nature of possible future effects. A specific policy and rule framework exists for the Business 4 Zone in West Kaiapoi, ~~and the Business 4 Zone in~~ Mandeville North and Ōhoka to ensure suitable scale and characteristics of any development within the zone and with regard to Mandeville North to recognise community desires.*

## **18. Constraints on Subdivision and Development**

### AMEND POLICY

#### Policy 18.1.1.9

*Ensure that any growth and development of Ōhoka settlement occurs in a manner that:*

- *maintains a rural village character comprising a predominantly low density living environment with dwellings in generous settings;*
- *achieves, as far as practicable, a consolidated urban form generally centred around and close to the existing Ōhoka settlement;*
- *encourages connectivity with the existing village and community facilities;*
- *achieves quality urban form and function;*
- *allows opportunities for a rural outlook;*
- *encourages the retention and establishment of large-scale tree plantings and the use of rural style roads and fencing;*
- *limits the potential for reverse sensitivity effects;*
- *avoids significant flood hazards;*
- *promotes the efficient and cost-effective provision and operation of infrastructure;*
- *recognises the low lying nature of the area and the need to provide for stormwater drainage; and*
- *ensures that any residential development occurring in the Ōhoka settlement does not increase the flood risk within Ōhoka and adjoining areas.*

#### Explanation

*Growth of Ōhoka settlement, defined by the Residential ~~2, 3,~~ 4A and 4B zones, is constrained by the need to ensure that any future residential development maintains its rural village character. This is most likely to be achieved by consolidating growth around or adjacent to the*

existing urban area and ensuring that development complements the existing low density rural residential environment. A consolidated growth pattern will provide opportunities for establishing connections with the existing settlement and community facilities, including the Ōhoka School. This form of development is also anticipated to promote the efficient provision of reticulated water and wastewater infrastructure and reduce the potential for reverse sensitivity effects on surrounding rural activities.

It is important that any further rural residential development occurs in a way, and to an extent, that does not overwhelm the special semi-rural character of the settlement.

It is expected that the type of growth and development required to maintain the rural village character of Ōhoka is that of low density living, where ~~larger allotments dwellings are situated within generous settings comprising an average lot size of between 0.5 – 1.0 hectare~~ surround smaller properties which form a walkable community around the village centre. The presence of rural village attributes within ~~such~~ the low density residential areas, including the retention and establishment of large-scale tree plantings and the use of rural style roads and fencing, will also assist in maintaining the settlement's rural themed characteristics. This type of settlement pattern is anticipated to generate a high level of amenity, including opportunities for a range of lifestyle living activities and an aesthetic rural outlook. This can be achieved either by enabling views into open green space or by the establishment of treed vegetation areas within or adjoining properties.

Another development constraint for growth at Ōhoka is the need to avoid land subject to significant flood risk. It will therefore be necessary for any proposed development to demonstrate that the land is suitable for its intended use and is not subject to undue risk of inundation. This includes the impact of cumulative effects on the area's drainage systems.

#### INSERT POLICY

##### Policy 18.1.1.9A

Provide for activities that support the Ōhoka settlement including educational facilities, a retirement village and a polo field and associated facilities.

#### **Rules**

#### **27 Natural Hazards**

#### INSERT RULE

27.1.1.34 Within the Outline Development Plan area shown on District Plan Map 185, any dwellinghouse shall have a floor level of 400mm above the 0.5% Annual Exceedance Probability flood event except within areas subject to Medium Flood Hazard where the floor level shall be 500mm above 0.5% Annual Exceedance Probability flood event.

#### **31. Health, Safety and Wellbeing**

Dwellinghouses

#### INSERT RULE

31.1.1.9A In the Residential 2 and 4A Zones, Ōhoka shown on District Plan Map 185, dwellinghouses shall be in accordance with any relevant Council approved design guidelines.

Structure Coverage

#### AMEND RULE

31.1.1.10 The structure coverage of the net area of any site shall not exceed:

...

n) 55% in Business 4 Zone in Ōhoka as shown on the District Plan Map 185

Setbacks For Structures

AMEND TABLE

Table 31.1: Minimum Structure Setback Requirements

Location	A setback is required from	Setback depth (minimum)
Rural Zone	Any road boundary	20m for any dwellinghouse 10m for any structure other than a dwellinghouse
	Any internal site boundary	20m for any dwellinghouse 3m for any structure other than a dwellinghouse
	Any existing dwellinghouse on an adjoining site	10m for any structure (excluding a dwellinghouse)
Rural Zone Maori Reserve 873 cluster housing	Any road boundary, any site boundary external to the cluster, and any existing dwellinghouse on an adjoining site	15m
All Residential Zones other than the Residential 4A Zone (Wards Road, Mandeville North and Mill Road, Ōhoka), Residential 6A and 7, the Residential 4A Zone (Bradleys Road, Ōhoka) and the Mandeville Road – Tram Road Mandeville North Residential 4A Zone, and the Residential 4A Zone (Woodend Beach Road, Woodend) (excluding any comprehensive residential development) NOTE: See Rule 31.1.1.15	Any road boundary (other than a boundary to a strategic road or arterial road) or any accessway	2m
	The zone boundary within Tuahiwi at the northern, eastern and southern extent as shown on District Plan Map 176B	15m

<p><i>Comprehensive residential development within Residential 1, 2 and 6 Zones</i></p>	<p><i>The road boundary</i></p>	<p><i>2 m for any dwellinghouse</i></p> <p><i>4 m for any garage where the vehicle entrance is generally at a right angle to the road.</i></p> <p><i>5.5 m for a garage where the vehicle entrance faces the road, and the garage must not be located closer to the road boundary than the front façade of the associated dwellinghouse</i></p>
<p><i>Residential 4A Zone (Bradleys Road, Ōhoka) shown on District Plan Map 169 and the Mandeville Road – Tram Road Mandeville North Residential 4A Zone shown on District Plan Map 182</i></p>	<p><i>Any road boundary</i></p> <p><i>Any internal site boundary</i></p>	<p><i>15m</i></p> <p><i>5m</i></p>
<p><i>Residential 4A Zone (Wards Road, Mandeville North) shown on District Plan Map 162, Residential 4A Zone (Mill Road, Ōhoka) shown on District Plan Map 160 and Woodend Beach Road shown on District Plan Map 171)</i></p>	<p><i>Any boundary from a local road</i></p>	<p><i>10m</i></p>
<p><i>Residential 4A Zone (Mill Road, Ōhoka) shown on District Plan Map 160</i></p>	<p><i>Mill Road boundary</i></p> <p><i>Any internal site boundary</i></p>	<p><i>15m</i></p> <p><i>5m</i></p>
<p><i>All Residential Zones, other than Residential 6, 6A and 7, where the site fronts onto a strategic or arterial road</i></p>	<p><i>The road boundary of any strategic or arterial road</i></p>	<p><i>6m, or 4m for any garage where the vehicle entrance is generally at right angles to the road</i></p>
<p><i>Residential 5 Zone</i></p>	<p><i>Any site boundary adjoining an accessway for allotments 15, 16, 17, 27, 28 and 29 shown on District Plan Map 140</i></p>	<p><i>4m</i></p>
<p><i>Residential 6A Zone (other than areas identified on District Plan Map 142 as</i></p>	<p><i>Any internal site boundary, other than boundaries with accessways</i></p>	<p><i>2m for any structure other than garages and structures above garages</i></p>

<i>excluded from the setback requirement)</i>		
<i>Residential 6A</i>	<i>Boundaries with accessways</i>	<i>10m for any structure other than a garage and structures above garages NOTE: Refer to Figure 31.1 and Rule 31.1.1.16</i>
<i>Residential 7</i>	<i>Any road boundary (other than to an arterial road) or any accessway</i>	<i>2m for any dwellinghouse within Area A 3m for any dwellinghouse within Areas B and C  5.5m for any structure other than a dwellinghouse within Areas A, B and C</i>
	<i>The road boundary of any arterial road</i>	<i>6m</i>
	<i>Any internal site boundary</i>	<i>2m</i>
	<i>Any site boundary of 309 Island Road being Lot 1 DP 62400</i>	<i>20m</i>
<i>Business 2, 3 and 6 Zones, where the site fronts onto a strategic or arterial road</i>	<i>The road boundary of any strategic or arterial road</i>	<i>10m</i>
<i>Business 2, 3, 5 and 6 Zones, and Woodend Business 1 Zone where the site is adjacent to a Residential Zone or a Rural Zone boundary</i>	<i>The zone boundary, or where the zone boundary is a road, the road boundary</i>	<i>10m</i>
<i>Business 4: Williams/Carew Zone and Business 4: Mandeville North</i>	<i>Any road boundary</i>	<i>6m</i>
	<i>Any internal site boundary</i>	<i>5m</i>



<i>Business 5 Zone at Kaiapoi</i>	<i>The zone boundary, the Smith Street boundary, and any site boundary adjoining a reserve</i>	<i>10m</i>
<i>All Zones</i>	<p><i>All 110kV overhead high voltage electrical lines as shown on District Plan Maps</i></p> <p><i>All 220kV and 350kV overhead high voltage electrical lines as shown on District Plan Maps where the span length is less than 375 metres</i></p> <p><i>All 220kV overhead high voltage electrical lines as shown on District Plan Maps where the span length is 375 metres or greater</i></p> <p><i>All 350kV overhead high voltage electrical lines as shown on the District Plan Maps where the span length is greater than 375 metres</i></p>	<p><i>32 metres either side of the centreline</i></p> <p><i>32 metres either side of the centreline</i></p> <p><i>37 metres either side of the centreline</i></p> <p><i>39 metres either side of the centreline</i></p>
<i><u>Residential 4A Zone (Ōhoka) shown on District Plan Map 185</u></i>	<i><u>Any road boundary</u> <u>Any internal site boundary</u></i>	<i><u>10m</u> <u>5m</u></i>
<i><u>Business 4 (Ōhoka) shown on District Plan Map 185</u></i>	<i><u>Any residential zone</u></i>	<i><u>3m</u></i>

#### Structure Height

##### AMEND RULE

31.1.1.35 Any structure in the ~~Mandeville North~~ Business 4 Zone at Mandeville North or Ōhoka shall not exceed a height of 8 metres.

#### Screening and Landscaping

##### AMEND RULE

31.1.1.39 Where a site within any Business Zone, other than the Business 4 – West Kaiapoi Zone and Business 4 Zone at Ōhoka, shares a boundary with any Residential Zone, the site shall be screened from the adjoining Residential Zone site(s) to a minimum height of 1.8m except where a lesser height is required in order to comply with Rule 30.6.1.24, for unobstructed sight distances.

#### AMEND RULE

31.1.1.50 Within the Residential 4A Zone, Bradleys Road, Ōhoka identified on District Plan Map 169 and the Residential 4A Zone, Ōhoka identified on District Plan Map 185 any fences/walls within any boundary setback shall be:

- a) *limited to a maximum height of 1.2m and a minimum height of 0.6m; and*
- b) *limited to traditional post and wire or post and rail fences, and be at least 50% open; and*
- c) *of a length equal to or greater than 80% of the length of the front boundary.*

#### INSERT NEW RULE

31.1.1.50A Within the Residential 2 Zone, Ōhoka identified on District Plan Map 185, fencing/walls shall be in accordance with any relevant Council approved design guidelines.

#### AMEND RULE

31.1.1.53 Within the Residential 2 and 4A zones shown on District Plan Map 185, landscaping for all residential properties (excluding retirement village activities) shall provide a minimum of:

- a) one tree within the road boundary setback for every 15 metres of road frontage (or part thereof) and;
- b) one additional tree elsewhere on the property for every 400m<sup>2</sup> of site area (or part thereof);
- c) all trees shall be not less than 1.5 metres high at the time of planting;
- d) all trees and landscaping required by this rule shall be maintained and if dead, diseased or damaged, shall be replaced; and
- e) for all allotments greater than 2,500m<sup>2</sup> in area, no less than 15% of the site shall be planted in native vegetation.

#### INSERT NEW RULE

Land use near the National Grid – Residential 4A (Ōhoka)

31.1.1.67 Within the Residential 4A Zone (Ōhoka) identified on District Plan Map 185, any structure located within 12 metres from the outer visible edge of a foundation of a National Grid support structure or located within 10 metres of the centre line of an overhead 66kV National Grid transmission line shall comply with the following:

- a) The structure is not a school, dwellinghouse or hospital.
- b) The structure complies with NZECP 34:2001 and is:
  - i. a network utility;
  - ii. a fence not exceeding 2.5m in height; or
  - iii. a non-habitable building used for agricultural or horticultural activities other than a milking/dairy shed, a wintering barn, a building for intensive farming activities, a commercial greenhouse or produce packing facility.
- c) The structure permitted under Rule 31.1.1.67.a must:

i. not be used for the handling or storage of hazardous substances with explosive or flammable intrinsic properties in greater than domestic scale quantities;

ii. not permanently obstruct vehicle access to a National Grid support structure;

iii. be located at least 12 metres from the outer visible edge of a foundation of a National Grid support structure, except where it is a fence located at least 6 metres from the outer visible edge of a foundation of a National Grid support structure.

### 31.3 Discretionary Activities (Restricted)

#### INSERT RULE

31.3.9 A retirement village, in the Residential 2 Zone as shown on District Plan Map 185 that meets all applicable conditions for permitted activities under Rule 31.1, **except for Rule 31.1.1.4 and Rule 31.1.1.6**, shall be a restricted discretionary activity.

In considering any application for a resource consent under Rule 31.3.9 the Council shall, in deciding whether to grant or refuse consent, and in deciding whether to impose conditions, restrict the exercise of discretion to the following matters:

a) Whether the development, while bringing change to existing environments, is appropriate to its context, taking into account:

i. Context and character:

The extent to which the design, including landscaping, of the village is in keeping with, or complements, the scale and character of development anticipated for the surrounding area and relevant significant natural, heritage and cultural features.

ii. Relationship to the street, public open spaces and neighbours:

Whether the village

- engages with and contributes to adjacent streets and any other adjacent public open spaces to contribute to them being safe and attractive, and
- avoids unacceptable loss of privacy on adjoining residential properties.

iii. Built form and appearance:

The extent to which the village is designed to minimise the visual bulk of the buildings and provide visual interest, and consistency with any relevant Council approved design guidelines.

iv. Access, parking and servicing:

The extent to which the village provides for good access and integration of space for parking and servicing particularly to cater for the safety of elderly, disabled or mobility-impaired persons.

v. Safety:

The extent to which the village incorporate CPTED principles to achieve a safe, secure environment.

vi. Stormwater

The adequacy of proposed stormwater management within the site.

vii. Sustainability measures

The extent to which, where practicable, incorporation of environmental efficiency measures in the design, including passive solar design principles that provide for adequate levels of internal natural light and ventilation.

Any application arising from this rule shall not be publicly notified.

INSERT NEW RULE

31.3.10 Educational facilities in the Residential 2 Zone within the educational facilities overlay as shown on District Plan Map 185 that meets all applicable conditions for permitted activities under Rule 31.1, and where no more than 250 students are enrolled shall be a restricted discretionary activity.

In considering any application for resource consent under Rule 31.3.10, the Council shall, in deciding whether to grant or refuse consent, and in deciding whether to impose conditions, restrict the exercise of discretion to the following matters:

a) Whether the development, while bringing change to existing environments, is appropriate to its context, taking into account:

i. Context and character:

The extent to which the design of the educational facility is in keeping with, or complements, the scale and character of development anticipated for the surrounding area and relevant significant natural, heritage and cultural features.

ii. Relationship to the street and public open spaces:

Whether the educational facilities engage with and contribute to adjacent streets, and any other adjacent public open spaces to contribute to them being safe and attractive.

iii. Built form and appearance:

The extent to which the educational facilities are designed to minimise the visual bulk of the buildings and provide visual interest.

iv. Access, parking and servicing:

The extent to which the educational facilities provide for good access and integration of space for parking and servicing.

v. Safety:

The extent to which the educational facilities incorporate CPTED principles to achieve a safe, secure environment.

vi. Stormwater

The adequacy of proposed stormwater management within the site.

vii. Sustainability measures

The extent to which, where practicable, incorporation of environmental efficiency measures in the design, including passive solar design principles that provide for adequate levels of internal natural light and ventilation.

Any application arising from this rule shall not be publicly notified.

#### INSERT NEW RULE

31.2.11 A polo field and associated facilities in the Residential 2 Zone within the polo facilities overlay as shown on District Plan Map 185 where:

- a) structures so not exceed a height of 8m, and
- b) structures are set back no less than 10m from any residential site

shall be a restricted discretionary activity.

In considering any application for resource consent under Rule 31.2.11, the Council shall, in deciding whether to grant or refuse consent, and in deciding whether to impose conditions, restrict the exercise of discretion to the following matters:

a) Whether the development, while bringing change to existing environments, is appropriate to its context, taking into account:

i) landscape planting consistent with the rural village character of the Ōhoka settlement and to assist the integration of the proposed development within the site and neighbourhood.

ii. the location and design of vehicle and pedestrian access and on-site manoeuvring.

iii. creation of visual quality and variety through the separation of buildings and in the use of architectural design, detailing, glazing, materials, colour and landscaping.

viii consistency with any relevant Council approved design guidelines.

viii. where practicable, incorporation of environmental efficiency measures in the design, including passive solar design principles that provide for adequate levels of internal natural light and ventilation.

ix. the proposed stormwater management within the site

Any application arising from this rule shall not be publicly notified.

#### 31.1.4 Discretionary Activities

#### INSERT NEW RULE

31.4.5 A retirement village, in the Residential 2 Zone as shown on District Plan Map 185 that does not meet all applicable conditions for permitted activities under Rule 31.1 shall be a discretionary activity.

#### INSERT NEW RULE

31.4.6 Educational facilities in the Residential 2 Zone within the educational facilities overlay as shown on District Plan Map 185 that does not meet all applicable conditions for permitted activities under Rule 31.1, or/and where more than 250 students are enrolled shall be a discretionary activity.

#### INSERT NEW RULE

31.4.7 A polo field and associated facilities in the Residential 2 Zone within the polo facilities overlay as shown on District Plan Map 185 that does not meet the conditions under Rule 31.3.11 shall be a discretionary activity.

INSERT NEW RULE

31.4.8 Any land use which does not comply with Rules 31.1.1.9A and 31.1.1.50A shall be a discretionary activity.

31.5 Non-complying Activities

INSERT NEW RULE

31.5.10 Any land use that does not comply with Rules 31.1.1.67 is a non-complying activity.

**Retail Activities and Traffic Matters**

31.26 Discretionary Activities

INSERT NEW RULE

31.26.4 Retail activity exceeding a total of 2,700m<sup>2</sup> Gross Floor Area within the Business 4 Zones, Ōhoka shown on District Plan Map 185 except any retail activity associated with a farmers market.

**32. Subdivision**

32.1.1 Standards and Terms

Residential 4A Zone

AMEND RULE

32.1.1.11 The minimum area for any allotment created by subdivision in any Residential 4A Zone shall be 2500m<sup>2</sup>. The average area of all allotments in any Residential 4A Zone shall not be less than 5000m<sup>2</sup> except within the Residential 4A Zone (Ōhoka) identified on District Plan Map 185 where the average area of all allotments shall not be more than 3300m<sup>2</sup>. Any allotment over 1ha in area is deemed to be 1ha for the purposes of this rule.

Outline Development Plans

AMEND RULE

32.1.1.28 Subdivision within the following areas shall generally comply with the Outline Development Plan for that area.

...

ak) The Residential 2 and 4A Zones and Business 4 Zone (Ōhoka) identified on District Plan Map 185 including the associated Outline Development Plan text.

32.2 Discretionary Activities (Restricted)

INSERT NEW RULE

National Grid – Residential 4A (Ōhoka)

32.2.16 Within the Residential 4A Zone (Ōhoka) identified on District Plan Map 185, any subdivision of land located within 32 metres of the centre line of an overhead 66kV National Grid transmission line is a restricted discretionary activity where a building platform is identified on the subdivision plan that is located more than 12 metres from the outer from the outer

visible edge of a foundation of a National Grid support structure and more than 10 metres from the centre line of an overhead 66kV transmission line, to be secured by way of a consent notice.

In considering any application for a resource consent under Rule 32.2.16 the Council shall, in deciding whether to grant or refuse consent, and in deciding whether to impose conditions, restrict the exercise of its discretion to the following matters:

i. The extent to which the subdivision allows for earthworks, buildings and structures to comply with the safe distance requirements of the NZECP 34:2001 New Zealand Electricity Code of Practice for Electricity Safe Distances.

ii. The provision for the ongoing efficient operation, maintenance, development and upgrade of the National Grid, including the ability for continued reasonable access to existing transmission lines for maintenance, inspections and upgrading.

iii. The extent to which potential adverse effects (including visual and reverse sensitivity effects) are mitigated through the location of an identified building platform or platforms.

iv. The extent to which the design and construction of the subdivision allows for activities to be set back from the National Grid, including the ability to ensure adverse effects on, and from, the National Grid and on public safety and property are appropriately avoided, remedied or mitigated, for example, through the location of roads and reserves under the transmission lines.

v. The nature and location of any proposed vegetation to be planted in the vicinity of the National Grid.

vi. The outcome of any consultation with Transpower New Zealand Limited.

vii. The extent to which the subdivision plan clearly identifies the National Grid and identified building platform or platforms.

#### INSERT NEW RULE

32.2.17 In the Residential 2 and 4A Zones, Ōhoka shown on District Plan Map 185, subdivision of more than 250 residential allotments (cumulatively) shall be a restricted discretionary activity.

In considering any application for resource consent under Rule 32.2.17, the Council shall, in deciding whether to grant or refuse consent, and in deciding whether to impose conditions, restrict the exercise of discretion to the effects on the safety and efficiency of the Tram Road / State Highway 1 interchange.

Any application arising from this rule shall not be publicly notified but shall be limited notified to Waka Kotahi – New Zealand Transport Agency absent its written approval.

#### INSERT NEW RULE

32.2.18 In the Residential 2 and 4A Zones, Ōhoka shown on District Plan Map 185, any subdivision of land shall be a restricted discretionary activity.

In considering any application for resource consent under Rule 32.2.18, the Council shall, in deciding whether to grant or refuse consent, and in deciding whether to impose conditions, restrict the exercise of discretion to the outcome of a traffic assessment undertaken in consultation with the District Council to determine what upgrades (if any) are required in respect of either the Mill Road / Ohoka Road intersection or the Flaxton Road / Threlkelds Road and Mill Road / Threlkelds Road intersections prior to the issue of a completion certificate under section 224 of the Act.

Any application arising from this rule shall not be limited or publicly notified.

INSERT NEW RULE

32.2.19 In the Residential 2 and 4A Zones, Ōhoka shown on District Plan Map 185, subdivision of more than 250 residential allotments (cumulatively) shall be a restricted discretionary activity.

In considering any application for resource consent under Rule 32.2.19, the Council shall, in deciding whether to grant or refuse consent, and in deciding whether to impose conditions, restrict the exercise of discretion to the outcome of a traffic assessment undertaken in consultation with the District Council to determine what upgrades (if any) are required in respect of the Tram Road / Whites Road intersection prior to the issue of a completion certificate under section 224 of the Act.

Any application arising from this rule shall not be limited or publicly notified.

INSERT NEW RULE

32.2.20 In the Residential 2 and 4A Zones, Ōhoka shown on District Plan Map 185, subdivision of more than 450 residential allotments (cumulatively) shall be a restricted discretionary activity.

In considering any application for resource consent under Rule 32.2.20, the Council shall, in deciding whether to grant or refuse consent, and in deciding whether to impose conditions, restrict the exercise of discretion to the traffic safety and efficiency effects in respect of the Bradleys Road / Tram Road intersection. This rule shall not apply if a roundabout has been constructed at this intersection.

Any application arising from this rule shall not be limited or publicly notified.

32.3 Discretionary Activities

INSERT NEW RULE

32.3.7 Any subdivision that does not comply with Rule 32.1.1.28.ak is a discretionary activity.








32.4 Non-complying Activities

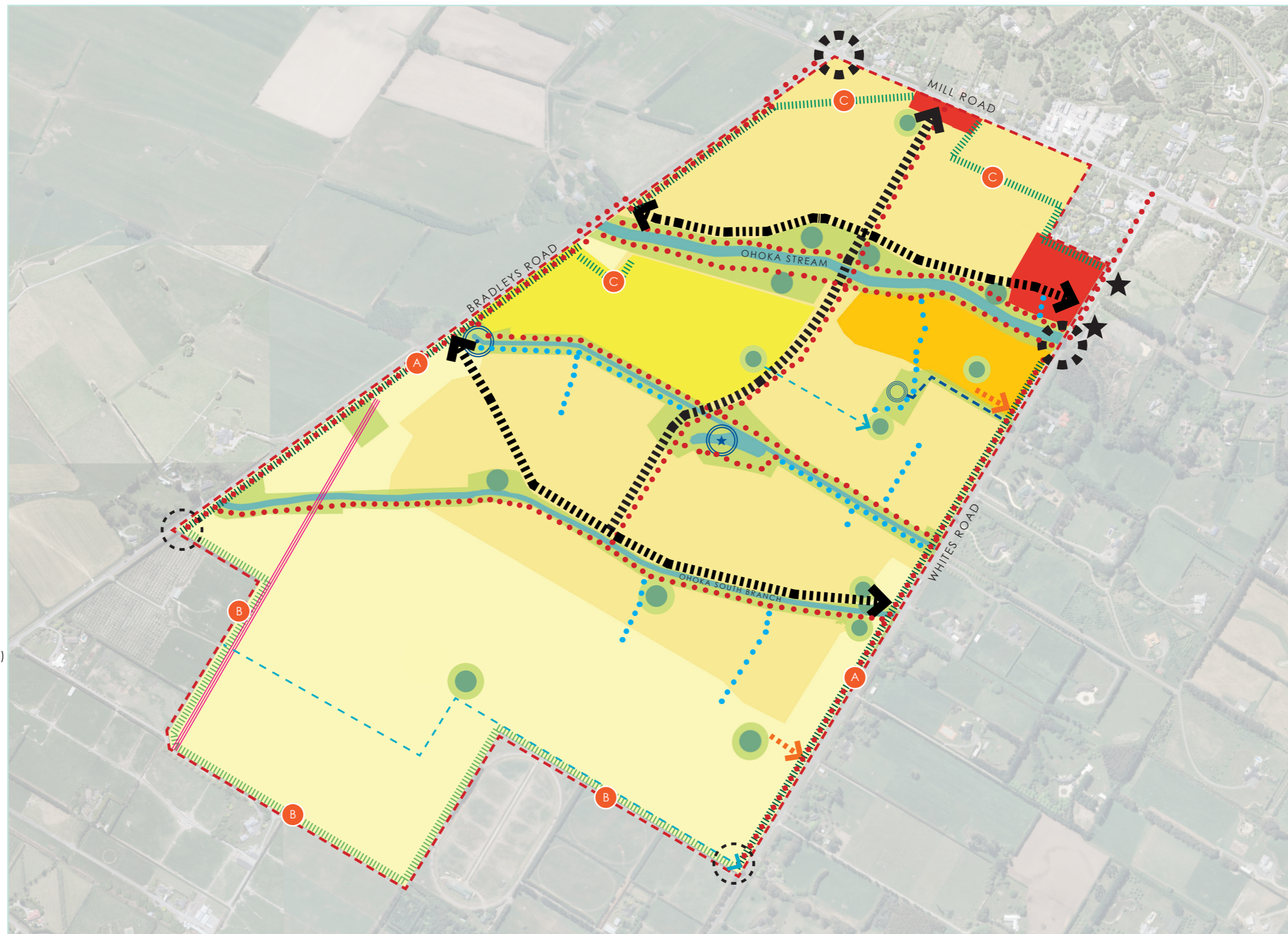
INSERT NEW RULE

32.4.14 Any subdivision of land within the Residential 4A Zone (Ōhoka) identified on District Plan Map 185 that does not comply with Rule 32.2.16 is a non-complying activity.



**LEGEND**

-  Outline Development Plan Area
-  Residential 2
-  Residential 2 (Educational Overlay)
-  Residential 2 (Polo Grounds Overlay)
-  Residential 4a
-  Business 4 Zone
-  Indicative (Collector) Road
-  Indicative Local Road Connection
-  Village Threshold / Gateway
-  Potential Minor Threshold
-  Indicative Pedestrian-Cycle Network
-  Indicative Pedestrian Path
-  Indicative Stormwater Management Areas (size and location to be confirmed)
-  Existing / Modified Waterways
-  Existing Springs and Associated Setback (30m)
-  Stormwater Conveyance Flow Path
-  Groundwater seep and associated setback (20m)
-  Groundwater Seep Channel
-  Existing Pond (size and location to be confirmed)
-  Green Network
-  Landscape Treatment A
-  Landscape Treatment B
-  Landscape Treatment C
-  Pedestrian / Cycle Crossing
-  Overhead 66kV Power Lines



**A. OUTLINE DEVELOPMENT PLAN - 535 MILL ROAD, OHOKA**

LANDSCAPE AND VISUAL IMPACT ASSESSMENT

**PROPOSAL - OUTLINE DEVELOPMENT PLAN**

535 MILL ROAD, OHOKA - PLAN CHANGE

