

BEFORE THE WAIMAKARIRI DISTRICT PLAN REVIEW HEARINGS PANEL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Waimakariri District Plan
Hearing Stream 6 (Rural)

**BRIEF OF EVIDENCE OF PAULINE FIONA ASTON
FOR RICHARD AND GEOFF SPARKS**

(Submission no.183)

25 September 2023

QUALIFICATIONS AND EXPERIENCE

1. My name is Pauline Fiona Aston (MA Cambridge University, England; M.Phil Town Planning, University College London; MNZPI; MRMLA). I have 40 years resource management and planning experience.
2. I am Principal of Aston Consultants Resource Management and Planning, and have operated my own consultancy practice, based in Christchurch, since 1995.
3. I confirm that I have prepared this evidence in accordance with the Code of Conduct for Expert Witnesses_Code of Conduct for Expert Witnesses contained in Part 9 of the Environment Court Practice Note 2023. The issues addressed in this statement of evidence are within my area of expertise except where I state that I am relying on the evidence or advice of another person. The data, information, facts and assumptions I have considered in forming my opinions are set out in the part of the evidence in which I express my opinions. I have not omitted to consider material facts known to me that might alter or detract from the opinions I have expressed.
4. Aston Consultants works extensively in the Greater Christchurch area, with numerous clients with interests in subdivision, land development and land use planning matters. I am familiar with the Greater Christchurch planning environment, including the Proposed and Operative Waimakariri District Plans.

SCOPE AND SUMMARY

5. My evidence is in response to matters raised in the Council officer memos (The Memos) regarding the National Policy Statement – Highly Productive Land (NPS-HPL)¹, specifically as they affect/have implications for the submission by Richard and Geoff Sparks (ID 183).
6. The particular matters of concern relate to:
 - a) application of the NPS-HPL to proposals in the Rural Lifestyle Zone (RLZ); and
 - b) the timing and appropriate Waimakariri District Council response to the Canterbury Regional Council mapping of HPL.
7. I agree with the staff Memos that the RLZ is exempted from the NPS-HPL. In my opinion it is clear that, before the Regional Policy Statement (RPS) is amended to

¹ NPS-HPL officer memorandums dated 22/7/23 and revised version dated 26/7/23

include the new soil maps and is made operative, the RLZ clearly comes within the bounds of clause 3.5.7 of the NPS-HPL as land *subject to a Council initiated, or an adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle.*

8. The National Planning Standard definition of RLZ is:

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

9. The PWDP RLZ generally accords with the eastern portion of the District where rural lifestyle blocks (around 4 ha) are prevalent and there is limited productive potential due to a combination of land fragmentation, small land parcels and potential reverse sensitivity effects, as confirmed by the Council's own rural production advisors (MacFarlane Rural Business 2018). In my opinion, this area is appropriately identified in the PDP as RLZ, notwithstanding the zoning was applied before the NPS-HPL was enacted. The RLZ does enable some primary production to occur, but due to the 'small site' character, residential living in a rural setting is the main focus. This is consistent with the PDP RLZ description and objectives and policies.
10. My understanding is that ECAN intends to notify mapping of HPL as part of the Proposed Canterbury Regional Policy (PRPS) in late 2024. The Memos state that if the RPS mapping includes some PDP notified RLZ land, then the Council could vary the PDP after the PRPS is notified. A variation should not be necessary given NPS-HPL cls.3.5.3 and 3.5.4 require district councils to insert the RPS HPL maps "*that are exactly equivalent to those in the relevant regional policy statement*" into district plans once the RPS maps are operative. This unlikely to be until around later 2026. The PWDP process should be completed well ahead of this.
11. In my opinion, the Spark land that is zoned RLZ is not HPL as defined in the NPS-HPL. Its zoning in the PWDP as Rural Lifestyle means it is exempted under Clause 3.5.7 (b)(ii).

HEARINGS PANEL MINUTE 7

12. On 30 June 2023 a staff memo from Mr Buckley to the Hearings Panel responded to a request in Minute 4 from the Hearings Panel that staff set out:

their intended approach to addressing submissions relating to the NPSHPL, and ensuring the NPS-HPL is given effect to through the PDP, including how they see that the NPS-HPL applies to the Waimakariri District.”

13. At para 18 the memo states that the NPS-HPL interim requirements of Clause 3.5.7 does not apply where land, as at 17 October 2022, had been identified for future urban development, or was subject to a Council initiated or adopted notified plan change to rezone from general rural or rural production to urban or rural lifestyle.

14. Mr Buckley at para 19 sets out his reasoning why the NPS-HPL would not apply to the RLZ Zone:

My reasoning, based on the plain and ordinary wording of Clause 3.5.7 is based on the fact that a district plan review is in effect a large-scale plan change (or collection of changes) that in part notified a rural lifestyle zone; although it should be noted that in notifying this change, the Rural Lifestyle Zone in the PDP was made in advance of the NPS-HPL and therefore it was not decision cognisant of the final NPS-HPL. Despite this, I note that the RLZ in the PDP was prepared under the rural lifestyle zone descriptor in the National Planning Standards, that was not redefined in the NPS-HPL.

15. At para 21 Mr Buckley concludes that:

I prefer the interpretation that the NPS-HPL does not apply to RLZ that is either operative, or is subject to a review/change of that provision (until a decision is made).

16. The Hearings Panel issued Minute 7 on 28 July 2023. At para (2) it said:

The Hearings Panel received the Council’s second memorandum on the NPS-HPL on 25 July, followed by an amended version on 27 July 2023. The amended version is available on the Council website. Submitters with an interest in this matter will have the opportunity to comment on the memorandum in Hearing Stream 6, which deals with the Rural Zones, commencing on 9 October 2023.

CONTEXT

17. The Sparks Brother’s own a dairy farm (the site) that is part of a 197.5 ha block of land This occupies a large block of land to the east of Rangiora between the railway line and Rangiora oxidation Ponds to the west, Northbrook Waters residential enclave to the NW, the Northbrook Wetlands and Northbrook Road to the north across to the North Brook to the east and the South Brook to the south of Marsh Road.
18. The Site also includes the Rossburn Events Centre and Northbrook Museum - 17 Spark Lane, legally described as Lot 1 DP 418207 (2.08 ha).
19. The area sought for rezoning is shown in Figure 1 below. Part of the Site (25.7 ha) is north of Boys Road and within the South East Rangiora Development Area outlined in red on **Figure 1** Block A) and part (30ha) is south of Boys Road and is proposed to be zoned Rural Lifestyle in the PWDP (Block B).

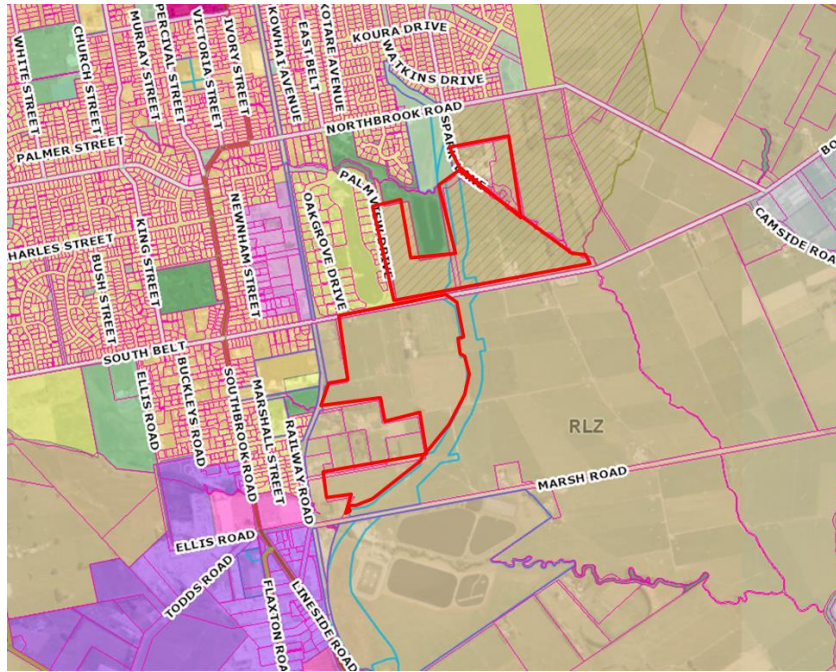


Figure 1: Land to be rezoned (north and south of Boys Road) outlined in red.

FURTHER SUBMISSIONS

20. The Spark further submission opposes a number of submissions which seek greater policy restrictions on use of HPL/Class 1-3 soils (ECAN, Christchurch City Council, Federated Farmers, and Horticulture NZ). I note that the s42A report advice that the issue of HPL will be addressed in within the Section 42A report for the Rural zones (Stream 6, October 2023).

RURAL LIFESTYLE ZONE

21. I agree with the Officer's Report (OR) at para 805 that the Rural Lifestyle Zone (RLZ) is exempted from the NPS-HPL. In my opinion, the RLZ clearly comes within the bounds of clause 3.5.7, specifically

(7) Until a regional policy statement containing maps of highly productive land in the region is operative, each relevant territorial authority and consent authority must apply this National Policy Statement as if references to highly productive land were references to land that, at the commencement date:

(b) is

(i) zoned general rural or rural production; and

(ii) LUC 1, 2, or 3 land; but

(a) is not:

(i) identified for future urban development; or

(ii) subject to a Council initiated, or an adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle.

22. At para 825 the reporting officer states that the urban areas to which UFD-P2 applies are all Greater Christchurch area and therefore exempt from the RPS policies and have been zoned RLZ and are excluded from the NPS-HPL under s3.5.7(b)(i). I agree with that position.

23. The staff Memos acknowledge that the Rural Lifestyle Zone in the PDP was made in advance of the NPS-HPL and therefore it was not a decision made or influenced by the final NPS-HPL. However, the PDP was prepared under the Rural Lifestyle Zone descriptor in the National Planning Standards (NPS). This description was not redefined in the NPS-HPL. The RLZ is described in the NPS as

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

24. The RLZ generally accords with the eastern portion of the District where rural lifestyle blocks (around 4 ha) are prevalent and there is very limited productive potential due to a combination of land fragmentation, small land parcels and potential reverse sensitivity effects, especially where land adjoins or is close to existing settlement areas. The District Plan Review Background Report 'Rural Production Advice – Rural Land Zoning'² (MacFarlane Rural Business November 2018) concluded:

In summary, there are very few agricultural or horticultural farming practises that would justify a farming business of 4ha (with the exception of very intensive vegetable production or glasshouse operations), even if they are operated to the highest level. The reality is that most properties under 10ha have been purchased for lifestyle purposes and the majority of the household income is derived off farm. Furthermore, once the house and amenities are deducted from the total area, the effective farming area on a 4ha property could be as low as 2ha. Whilst in theory a group of 4ha properties could be operated in conjunction to achieve scale, this is unlikely to be successful given owners will often have differing priorities and the fact that the small paddock sizes will limit operational efficiency.

² See https://www.waimakariri.govt.nz/_data/assets/pdf_file/0020/136145/26.-Waimakariri-District-Plan-Review-v2.pdf

Production System	Minimum Production area (Hectares)
Speciality small seed (e.g. carrots)	10 – 15
Horticulture	10 – 15
Vegetables	15 – 20
Dairy support and Dairy	20 – 40
Mixed cropping/Livestock	20 – 40
Intensive breeding finishing	40
Extensive breeding and finishing	100

Table 10: Minimum productive rural land use areas.

Source: S42A Report Rural para 893

25. In my opinion, generally the eastern portion of the District is appropriately identified in the PDP as RLZ, notwithstanding the zoning was applied before the NPS-HPL was enacted. The RLZ does enable primary production to occur, but due the ‘small site’ character, residential living in a rural setting is the main focus. The minimum lot size for subdivision and a residential unit is 4 ha. This is consistent with the PDP RLZ description and objectives and policies in particular:

RLZ-O1

Purpose of the Rural Lifestyle Zone

Primary production activities and activities reliant on the natural and physical resources of the rural environment occur while recognising that the predominant character is small rural sites with a more intensive pattern of land use and buildings than the General Rural Zone.

RLZ-P2

Activities in the Rural Lifestyle Zone

Retain opportunities for land within the zone to be used for primary production activities while maintaining the predominant character of small rural lots by avoiding new sites being created, or residential units being erected on sites, that are less than 4ha, unless:

26. The RLZ has as its primary purpose lifestyle activities, not primary production. That said primary production is not dis-enabled by the PDP but it is clearly a secondary focus, unlike the reverse proposition for the GRUZ.
27. It is appropriate then, in my opinion that RLZ as zoned in the PDP continues to be exempt from the NPS-HPL following the ECAN soil mapping exercise. The underlying pattern of development, the disposition of lot sizes in the eastern part of the District and the dominance of lifestyle land uses exist now. That is unlikely to change. The advice from McFarlane set out earlier in my evidence (at para 20) confirms that there is a significantly reduced capacity and capability for the existing RLZ to significantly contribute to primary production. The baseline environment should be the determinant of the zoning, not its underlying soils.

28. Further, I consider that there should be no suggestion that, as a result of the ECAN soil mapping exercise, the present extent of RLZ be reduced or re-drawn by way of variation to the PDP or a Change to the Operative DP on the basis that it will contain LUC class 1-3 soils. That would have the effect in my opinion, of unnecessarily constraining future growth and development of the eastern part of the district (and it is within Greater Christchurch and subject to the upcoming Christchurch Spatial Plan). It is likely in my experience to create land use uncertainty and unnecessary costs for proposals that can take advantage of the LRZ subdivision and development standards that are heavily influenced by the existing land use and land holding characteristics of the Zone.

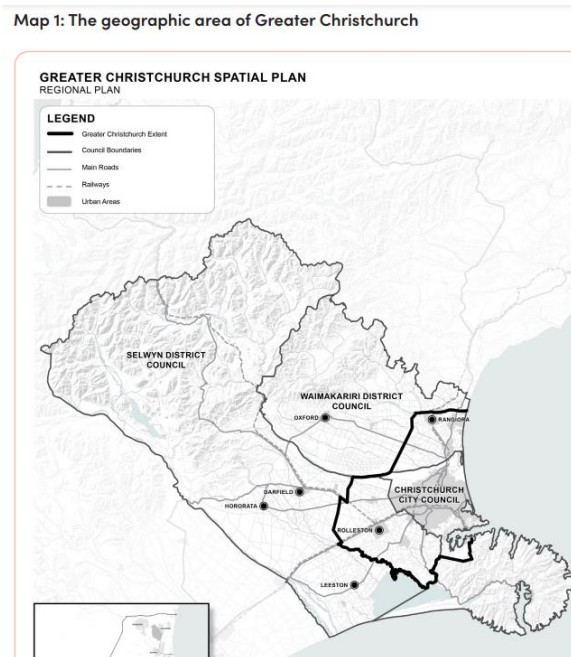


Figure 3: Map 1 Draft Greater Christchurch Spatial Plan

ECAN HPL MAPPING

29. The staff Memos³ consider that:

the wording of submissions provide sufficient scope to enable the necessary response to the NPS-HPL to be undertaken now (i.e. ahead of the mapping to be undertaken by the Regional Council) and given sufficient engagement with the Regional Council should not require a variation to the PDP unless the Regional Council HPL mapping includes any proposed RLZ land. These recommended changes can be reviewed and

³ Amended officer NPS-HPL memo paragraph 13

reported on again, once the proposed change to the RPS has been publicly notified at the end of 2023.

30. My understanding is that ECAN intend to include the mapped HPL areas in the review of the RPS, to be notified at the end of 2024 not 2023. The memo reference to 'end of 2023' should be 'end of 2024'. I have discussed this with Mr Matt Bacon (Council planning manager) who confirms that this is also his understanding.

31. If the RPS mapping includes some PDP notified RLZ land, then the Officer memo suggests the Council could vary the PDP after the RPS Review is notified. A variation is not anticipated by NPS-HPL clause 3.5.3 and 3.5.4

(3) As soon as practicable, and not later than 6 months, after a regional policy statement that includes maps of highly productive land becomes operative, each relevant territorial authority must identify the highly productive land in its district, and must do so using maps that are exactly equivalent to those in the relevant regional policy statement.

(4) The inclusion of the maps of highly productive land in district plans is an amendment subject to section 55(2) of the Act (which means the territorial authority must make the amendment without using a process in Schedule 1 of the Act).

32. The District Plan mapping is to occur after the RPS mapping is made operative, not notified. My understanding is that the RPS Review will be a full review of all chapters. It is likely to take the full statutory two years to progress through the submissions and hearings processes to the release of decisions on submissions which would be late 2026 if notified in late 2024. The PWDP process should be completed well ahead of this and zoning decisions confirmed.

CONCLUSION

33. I support the position adopted by Mr Buckley in his 30 June 2023 memo to the Hearing Panel on the proper interpretation and application of the exemption to the interim requirements of the NPS-HPL for RLZ land before the regional council has completed its LUC 1-3 mapping exercise. I agree that a district plan review is in effect a large-scale plan change (or collection of changes) that proposed the LRZ.

34. In my opinion, the Spark land that is zoned RLZ is not HPL as defined in the NPS-HPL. Its zoning in the PWDP as Rural Lifestyle in the PWDP means it is exempted under Clause 3.5.7 (b)(ii).

35. The relief sought in the Spark further submissions also helps achieve the purpose of the RMA, and is consistent with the relevant provisions of the NPS-HPL.