

**Before the Independent Commissioners appointed by the Waimakariri District Council**

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

and

In the matter of                      Proposed Private Plan Change 31 (PC31) to the Waimakariri  
Operative District Plan by Rolleston Industrial  
Developments Limited

**Brief of evidence of Nick Boyes on behalf of Waimakariri District Council (as  
Submitter) - Planning**

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Dated: 21 July 2023

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## **Evidence of Nick Boyes:**

### **Introduction**

1. My name is Nicholas (Nick) Boyes. I am an independent planning consultant and work in my own company Core Planning and Property Ltd. I hold a Bachelor of Science (majoring in Plant and Microbial Science and Geography) from the University of Canterbury (1997) and a Master of Science (Resource Management) (Hons.) from Lincoln University (1999). I have worked in the field of planning/resource management since 1999, the last 22 years as a planning consultant.
2. My experience includes district plan development, including the preparation of plan provisions and accompanying section 32 evaluation reports, and preparing and presenting s42A reports and evidence at both Council Hearings and the Environment Court. I am currently preparing the Rural, Natural Features and Landscapes and Natural Character Chapters as part of the Mackenzie District Plan Review. I also have experience undertaking policy analysis and preparing submissions for clients on various RMA documents, and preparing and processing resource consent applications and notices of requirement for territorial authorities. Relevant to the consideration of PC31, I processed and reported on Plan Change 69 to the Operative Selwyn District Plan to rezone approximately 190 hectares of rural land at Lincoln for residential purposes. That development, by the same Applicant, enabled approximately 2000 residential sites and a small commercial zone.

### **Code of conduct**

3. In preparing my evidence I have reviewed and agree to comply with the Code of Conduct for Expert Witnesses contained in Part 9 of the Environment Court Practice Note 2023. This evidence has been prepared in compliance with the Practice note. I confirm that the issues addressed in this statement of evidence are within my area of expertise, except where relying on the opinion or evidence of other witnesses, which I will specify. I have not omitted to consider any material facts known to me that might alter or detract from the opinions expressed.

### **Scope of evidence**

4. My evidence is presented on behalf of the Waimakariri District Council, a submitter to PC31.

5. In preparing my evidence I have reviewed the PC31 application documentation, the section 42A report prepared by Mr Andrew Willis (including the attachments from Mr Yeoman (economics) and Mr Nicholson (urban design)), the planning evidence of Mr Tim Walsh for the Applicant setting out the various changes to the proposal in response to matters raised in the section 42A report; along with evidence of Mr Nicholas Fuller (transport), Mr Simon Milner (public transport), Mr Garth Falconer (urban design), Ms Nicole Lauenstein (urban design), Mr David Compton-Moen (landscape) and Mr Tony Milne (landscape).
6. I have also reviewed the evidence prepared in support of the submission by the Waimakariri District Council:
  - Mr Richard Knott (Urban Design)
  - Mr Kim Goodfellow (Landscape)
  - Mr Andrew Metherell (Transport)
  - Mr Shane Bishop (Infrastructure and Servicing).
7. I have visited the site and the wider Ohoka/Mandeville area.
8. In my evidence I focus on the identification, relevance and assessment of the key statutory planning documents; namely the National Policy Statement for Urban Development 2020 (NPS-UD), the Canterbury Regional Policy Statement (CRPS), the Operative Waimakariri District Plan (ODP), the Waimakariri District Development Strategy (DDS), and the Proposed Waimakariri District Plan (PDP). This evidence does not provide a comprehensive planning assessment of every policy applicable to the assessment of PC31, but instead focusses on what I consider to be the key planning provisions as they relate to the consideration of PC31.

### **Summary of evidence**

9. The PC31 site is not identified as a Greenfield Priority Area (GPA) for residential development, Future Development Area (FDA), nor is it within the projected infrastructure boundary shown on Map A within Chapter 6 of the CRPS. Meaning that the proposal does not accord with the prescriptive growth framework for urban growth set out in **Objective 6.2.1(3), Objective 6.2.2, Objective 6.2.6 and Policy 6.3.1(4)** of the CRPS.

10. In terms of the ODP, for the reasons indicated above the proposal is also contrary to **Objective 14.6.1** and associated **Policy 14.6.1.1**. Furthermore, I consider the proposal does not satisfy the development aspirations set out in **Policy 18.1.1.9**, which is specific to growth at Ohoka.
11. Clearly, and as acknowledged by Mr Walsh for the Applicant, PC31 is not anticipated by the regional and district planning documents<sup>1</sup>.
12. Therefore, PC31 relies squarely on the provisions contained in the NPS-UD in order to be approved. I agree with the evidence of Mr Walsh, that the application of the NPS-UD is of critical importance to the success [or otherwise] of PC31. I also agree with Mr Walsh's assertion that if the NPS-UD is found not to apply, or the plan change request is found to be inconsistent with it, there are strong grounds for refusal<sup>2</sup>.
13. Whether the NPS-UD applies to this site depends on whether Ohoka is an 'Urban Environment' for the purpose of the NPS-UD. Mr Knott considers that Ohoka is not an urban environment and that the NPS-UD is not a relevant matter to consider in determining PC31<sup>3</sup>. If that is the case PC31 should be refused as it is not otherwise supported by either the CRPS, the ODP, the DDS or the PDP.
14. In any case, the NPS-UD (**Policy 8**) provides an opportunity to allow consideration of an 'out of sequence' or 'unanticipated' development proposal that that might otherwise be precluded by the CRPS and the ODP (as is the case with PC31). However, this opportunity is predicated on development meeting the significant capacity threshold (**Policy 8**); contributing to a well-functioning urban environment (**Objective 1** and **Policy 1**); being able to be adequately and efficiently serviced by infrastructure (**Policy 10**); and being well connected along transport routes (**Policy 1** and **Clause 3.8**).
15. Relying on the evidence of others, I am of the view that PC31 does not meet those NPS-UD thresholds, particularly in relation to being described as contributing to a "*well-functioning urban environment*". On that basis I consider that PC31 does not represent the type of development promoted by the NPS-UD and therefore cannot rely on the unanticipated or out of sequence development opportunities provided for within.

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<sup>1</sup> Evidence of Mr Tim Walsh, paragraph 20.

<sup>2</sup> Evidence of Mr Tim Walsh, paragraph 198.

<sup>3</sup> Evidence of Mr Richard Knott, paragraph 26.

16. In the absence of the ability to rely on the responsive planning approach set out in the NPS-UD, my assessment of the CRPS, ODP, DDS and PDP is such that PC31 should be refused.

### Canterbury Regional Policy Statement (CRPS)

17. The PC31 request sets out that the most relevant objectives and policies of the CRPS are those contained in Chapters 5 (to the extent relevant to the entire region), 6, 7, 11, 15 and 16. This evidence is restricted to consideration of the Chapter 6 – Recovery and Rebuild of Greater Christchurch.
18. The PC31 site is not identified as a Greenfield Priority Area (GPA) for residential development, nor is it within the projected infrastructure boundary shown on Map A within Chapter 6 of the CRPS, meaning that it does not give effect to: **Objective 6.2.1(3)** which “*avoids urban development outside of existing urban areas or greenfield priority areas for development*”; **Objective 6.2.2** which seeks “*consolidation and intensification of urban areas, and avoids unplanned expansion of urban areas*”; **Objective 6.2.6** to “*identify and provide for Greater Christchurch’s land requirements for the recovery and growth of business activities in a manner that supports the settlement pattern brought about by Objective 6.2.2*”; and **Policy 6.3.1(4)** to “*ensure new urban activities only occur within existing urban areas or identified greenfield priority areas as shown on Map A, unless otherwise expressly provided for in the CRPS*”.
19. A change to Chapter 6 of the CRPS amended Map A to identify Future Development Areas (FDAs) in order to support the outcomes expressed in Our Space 2018-2048. Our Space identified sufficient development capacity to meet anticipated housing needs over a thirty year planning horizon out to 2048, including identification of new FDAs in Rolleston, Rangiora and Kaiapoi. This was undertaken to provide sufficient development capacity to meet expected demand for housing and business land in accordance with NPS-UD requirements (which took effect on 20 August 2020). The Proposed Change was approved by the Minister for the Environment on 28 May 2021 and the changes became operative on 28 July 2021.
20. Neither Our Space nor the CRPS change identified land at Ohoka (including the PC31 site in particular) as being necessary to meet future growth demands in Greater Christchurch over the 30-year period to 2048.

21. **Objective 6.2.1** is also broader than simply specifying the locations for future urban growth. It also seeks that recovery, rebuilding and development are enabled within Greater Christchurch through a land use and infrastructure framework that:
- 5. *protects and enhances indigenous biodiversity and public space;*
  - 6. *maintains or improves the quantity and quality of water in groundwater aquifers and surface waterbodies, and quality of ambient air;*
  - 9. *integrates strategic and other infrastructure and services with land use development*
  - 11. *optimises use of existing infrastructure; and...*
22. **Policy 6.3.3** provides direction in relation to outline development plans. Whilst this strictly applies only to GPA, I consider the direction therein is still relevant. It states that Outline Development Plans include (as relevant) land required for community facilities or schools ((3)(b); demonstrate how effective provision is made for a range of transport options including public transport options and integration between transport modes, including pedestrian, cycling, public transport, freight, and private motor vehicles (8); and show how other potential adverse effects on and/or from nearby existing or designated strategic infrastructure (including requirements for designations, or planned infrastructure) will be avoided, remedied or appropriately mitigated (9).
23. **Objective 6.2.4** seeks to prioritise the planning of transport infrastructure so that it maximises integration with identified priority areas and “new settlement patterns” and facilitates the movement of people and goods and provisions of services in Greater Christchurch, while achieving a number of outcomes. These include reducing dependence on private motor vehicles, reducing emissions and promoting the use of active and public transport nodes. My understanding of this objective, and the related policy direction is that it is aimed towards planning of transport infrastructure.
24. **Policies 6.3.4** ‘Transport Effectiveness’ and **6.3.5** ‘Integration of land use and infrastructure’ seek to ensure an efficient and effective transport network across Greater Christchurch. **Policy 6.3.4(2)** states: “*providing patterns of development that optimise use of existing network capacity and ensuring that, where possible, new building projects support increased uptake of active and public transport and provide opportunities for modal choice*”. Relying on the evidence from Mr Binder and that of Mr Metherell, I consider that the proposal does not give

effect to **Objectives 6.2.1(9) and (11), Objective 6.2.4 and Policies 6.3.4 and 6.3.5**. The PC31 location adjacent to such a small existing 'urban environment' means that it is difficult to integrate strategic and other infrastructure and services.

25. Overall, I consider that the CRPS policy framework directs growth of the scale proposed by PC31 towards a Key Activity Centre (KAC), where such infrastructure is already in place can be more effectively and efficiently extended to provide for future growth.

#### **Operative Waimakariri District Plan**

26. The operative Waimakariri District Plan (ODP) includes three Chapters with objectives and policies relevant to the consideration of PC31. This evidence assesses only those relevant to a higher-level strategic planning assessment, rather than focussing on those of a more technical nature that would require greater supporting assessment from various other technical experts.

#### ***Constraints on Subdivision and Development***

27. The ODP sets out that **Objective 18.1.1** and related **Policy 18.1.1** are the basis of determining the effects of any plan change proposal. The explanation to this policy states that the environmental quality and community expectations for an area can be the foundation for determining the impact of the proposal and providing for integrated management of the District's resources.
28. **Policy 18.1.1.1** allows the Council to respond to potential changes in the amenity values, environmental quality, or community expectations of an area brought about by plan changes. The policy allows consideration of effects both of the new or extended zone onto adjacent areas, and also existing effects from the adjacent areas onto the new zone.
29. The explanation to **Policy 18.1.1** makes specific reference to the desire by residents for the retention of the rural environment around the Residential 4A and 4B Zones, in order to maintain and enhance the form and function of these environments. **Policy 18.1.1** also promotes the opportunity for Council to assess the integrated management of resources by ensuring infrastructure is provided in an efficient and effective manner.
30. This policy recognises that activities in zones surrounding an area subject to a plan change proposal may have adverse effects in relation

to the newly proposed environment. The scale and extent of the land area involved in PC31 within an existing rural environment means that this Policy is also of key relevance in terms of any potential reverse sensitivity effects that might arise.

31. **Policy 18.1.1.9** is specific to urban growth at Ohoka settlement, and in particular 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 Ohoka 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 Ohoka settlement does not increase the flood risk within Ohoka and adjoining areas.*

32. The explanation to **Policy 18.1.1.9** states that:

*Growth of Ohoka 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 Ohoka 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.*

33. The section 32 submitted in support of PC31 states that “*In terms of the wider urban form of the District, Ohoka will become a more significant node within the constellation of centres of the District and Greater Christchurch. This is considered appropriate given its close proximity to*



*Kaiapoi and Rangiora and easy access (including by public transport via park and ride facilities) to Christchurch” (Paragraph 105).*

34. The explanation to **Policy 18.1.1.9** goes on to state that *“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 Ohoka 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”*.
35. Mr Knott reaches the view that the PC31 development will “in no way” reflect the existing rural village character of Ohoka<sup>4</sup>. I note that Mr Knott disagrees with the evidence of Mr Compton-Moen that PC31 is a natural extension to Ohoka; as well as that of Mr Falconer where he describes PC31 as “augmenting” the existing historic Ohoka settlement. To the contrary, Mr Knott notes the 7-fold increase in the size of Ohoka will effectively create a new town within a rural environment, of which the existing settlement becomes just a small part. Mr Goodfellow describes the situation in which PC31 will mean that the present character of Ohoka village will no longer exist and will be replaced with a suburb of housing density that is normally found in urban centres such as Christchurch or Rangiora<sup>5</sup>.
36. PC31 does not represent growth that accords with the aspirations set out in ODP **Policy 18.1.1.3** and **Policy 18.1.1.9** in particular. It would seem to be more appropriate that the growth of the scale proposed should be located in a Key Activity Centre (KAC), such as Rangiora or Kaiapoi. The creation of a “more significant node” at Ohoka does not appear to fit with communities expectations as articulated in the above policy framework. The scale of the proposed development is far beyond what could be described as a maintaining a rural village character as described in **Policy 18.1.1.9**.

### ***Rural Zones***

37. **Policy 14.1.1.4** is to *“Maintain rural character as the setting for Residential 4A and 4B Zones”*. The ODP explanation refers to **Policy 14.1.1.4** recognising that residents in Residential 4A and 4B Zones value

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<sup>4</sup> Evidence of Mr Richard Knott, paragraph 38.

<sup>5</sup> Evidence of Mr Kim Goodfellow, paragraph 23.

an outlook dominated by paddocks, trees, natural features, and agricultural, pastoral or horticultural activities.

38. The evidence of Mr Goodfellow considers that the current assessment of PC31 on the rural character of the scale of growth remains focussed on boundary treatments and visual screening as opposed to the overall impact on the character of the surrounding rural locality. It is acknowledged that both the ODP and PDP provide for the development of the PC31 site into 36 x 4 hectare allotments. The evidence of Mr Milne for the Applicant suggests that this means that the *“current open rural views that are experienced across the PC31 site cannot be anticipated to remain”*<sup>6</sup>. I agree with the evidence of Mr Knott and Mr Goodfellow that this development is in no way comparable or justifies the urban development of 850 to 900 residential allotments proposed by PC31. The 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 PC31 site.

39. **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.”*

40. Associated **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.”*

41. For the reasons already set out above in the context of the CRPS, I consider PC31 is contrary to this objective and policy.

### **Urban Environment**

42. **Objective 15.1.1** is to have 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** is 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”*.

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<sup>6</sup> Evidence of Mr Tony Milne, paragraph 12.

43. Based on the evidence of Mr Knott and Mr Goodfellow, it does not appear that the development proposed by PC31 is well integrated into the existing rural setting, or maintains or enhances the form, function and amenity values of the existing Ohoka Settlement. It is difficult to reconcile how a development that takes the population from less than 300 to approximately 2,485 persons can integrate rather than dominate the existing Ohoka village.

**Waimakariri District Development Strategy ‘Our District, Our Future – Waimakariri 2048’ (DDS)**

44. The DDS was produced in 2018 and acknowledges the Waimakariri District is one of the fastest growing in New Zealand. It provides for urban growth around the main towns of Rangiora, Kaiapoi, Woodend/Pegasus (including Ravenswood) and Oxford. The DDS intends that for Ohoka, only existing vacant areas are to develop and some further expansion opportunities, where generally consistent with historic growth rates, i.e., it does not signal the scale of residential development proposed by PC31.

**Proposed Waimakariri District Plan (PDP)**

45. Building on from the work that was undertaken as part of the DDS, the Waimakariri District Council identified New Development Areas as part of the Proposed District Plan. These are located on the outskirts of Rangiora and Kaiapoi with the assumption that they will accommodate between 5,000 and 7,000 new dwellings to provide sufficient development capacity to accommodate predicted housing growth in the district.

**Summary of Regional and District Planning Documents**

46. None of the regional and district planning documents assessed above provide policy support for the development proposed by PC31. In my view PC31 is unanticipated and not supported by the relevant RMA planning documents and should not be approved given the policy framework contained therein.

**Relevance of the NPS-UD**

47. In the context of the above findings, in my view the only pathway for PC31 to be approved is via the NPS-UD. As the higher order document, the planning instruments assessed above must give effect to the NPS-

UD<sup>7</sup>. In that way the “responsive” approach embedded in the NPD-UD (**Objective 4**) can potentially over-ride the directive policy approach included in the CRPS Chapter 6 and ODP **Objective 14.6.1** and **Policy 14.6.1.1**.

48. The first matter to determine is whether the PC31 is within an ‘Urban Environment’. The NPS-UD only applies to ‘urban’ environments.
49. The NPS-UD defines an ‘urban environment’ as being an area of land that is or is intended to be predominantly urban in character; and is or is intended to be part of a housing and labour market of at least 10,000 people (regardless of size, and irrespective of local authority or statistical boundaries).
50. The current population of Ohoka is understood to be less than 300 people. The total future population of Ohoka following PC31 is estimated to be 2,400 people, remaining significantly less than the 10,000 people referred to in the NPS-UD definition. It is clear that any description of Ohoka as part of an ‘urban environment’ requires consideration at a larger scale than the immediate area.
51. PC31 relies on the ‘urban environment’ including all of the Greater Christchurch Urban Area as identified in the Land Use Recovery Plan (2015) and Chapter 6 to the CRPS (as amended by the LURP).
52. Mr Willis in the section 42A report notes that Greater Christchurch urban area was created for a specific purpose and included areas anticipated for urban development. More importantly, he notes that it was not created for the purposes of implementing the NPS-UD, which did not take effect until 20 August 2020. Mr Willis goes onto suggest that it cannot simply be assumed that the area mapped in the above-mentioned documents is the ‘urban environment’ for the purpose of assessing the NPS-UD; and suggests that the Applicant provide further evidence on this point<sup>8</sup>.
53. I have reviewed the information set out at paragraphs 201 to 204 of Mr Walsh’s evidence. My summary of that evidence is that it relies on the comparative assessment of the circumstances in relation to other plan changes for urban development, and specifically references PC67 for residential development at West Melton (in the Selwyn District), which

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<sup>7</sup> Section 75(3)(a) of the Resource Management Act 1991 (RMA).

<sup>8</sup> WDC section 42A report, paragraph 7.3.11.

similarly relied upon the identification of West Melton within the Greater Christchurch urban area.

54. I consider that Greater Christchurch functions as an interconnected housing and employment market; and on that basis it would be appropriate to consider this as the starting point when assessing whether the PC31 site is within a wider urban environment. It is noted that was the position I adopted when reporting on PC69 at Lincoln on behalf of the Selwyn District Council.
55. However, the circumstances of PC31 are such that it completely dominates the existing Ohoka village. The existing urban area of Ohoka shown on Map A in the CRPS is only some 14ha in area. PC31 seeks to rezone an additional area of 156ha to create a minimum of 850 new households.
56. By contrast, I note that the other plan changes considered within Greater Christchurch seeking to rely on the NPS-UD did not dominate the existing township to anywhere near the same extent. For example, PC67 at West Melton as referred to by Mr Walsh enabled 131 residential sites on an area of some 33ha in the context of an existing urban area of approximately 225ha.
57. This difference in nature of receiving environment and scale of development relative to the receiving 'urban' environment does open the question as to whether PC31 can rely on the NPS-UD. I understand that Mr Schulte will address this matter further in legal submissions.
58. In any case, how PC31 integrates within the existing urban environment will impact on the ability to meet the other requirements set out in the NPS-UD (namely whether it contributes to a well-functioning urban environment in terms of **Objective 1** and **Policy 1** therein).

#### **NPS-UD Assessment**

59. **Objective 6** of the NPS-UD seeks that local authority decisions on urban development that affect urban environments are integrated with infrastructure planning and funding decisions; strategic over the medium term and long term; and are responsive, particularly in relation to proposals that would supply significant development capacity. This Objective is implemented by:

- **Policy 2**, which requires that “at least” sufficient development capacity is provided within the district to meet the expected demand for housing, in the short, medium and long terms.
- **Policy 6**, which guides decision-makers to have particular regard to (amongst others) *“any relevant contribution that will be made to meeting the requirements of this National Policy Statement to provide or realise development capacity”*.
- **Policy 8**, which states that *“local authority decisions affecting urban environments are responsive to plan changes that would add significantly to development capacity and contribute to well-functioning urban environments, even if the development capacity is:*
  - a) *unanticipated by RMA planning documents; or*
  - b) *out-of-sequence with planned land release”*.

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

- (2) *Every local authority must have particular regard to the development capacity provided by the plan change if that development capacity:*
  - a) *would contribute to a well-functioning urban environment; and*
  - b) *is well-connected along transport corridors; and*
  - c) *meets the criteria set under subclause (3); and*
- (3) *Every regional council must include criteria in its regional policy statement for determining what plan changes will be treated, for the purpose of implementing Policy 8, as adding significantly to development capacity.*

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

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

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

63. The definition of development infrastructure includes water, wastewater and stormwater as well as land transport infrastructure.

Therefore, if a proposal cannot be adequately serviced by the necessary infrastructure it cannot be said to contribute to development capacity.

64. **Policy 8** of the NPS UD sets out two tests for unanticipated or out-of-sequence development and both tests must be achieved before the NPS-UD allows for a private plan change to be successfully considered, i.e., it must both:
- a) *add significantly to development capacity; and*
  - b) *contribute to well-functioning urban environments.*

### ***Development Capacity***

65. **Policy 2** requires Tier 1, 2, and 3 local authorities, at all times, provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term, and long term. The evidence of Mr Walsh provides considerable analysis and assessment to why the New Development Areas identified by the Waimakariri District Council in the Proposed District Plan will not deliver the 5,000 to 7,000 households predicted. Mr Walsh considers that 1,800 to 2,600 fewer dwellings will be realised than anticipated.
66. I am not aware of the Council growth projects relied upon or the methodology for identifying the New Development Areas included in the Proposed District Plan. Notwithstanding, should Mr Walsh's observations regarding a potential shortfall be correct. In my view that does not assist the potential success of PC31 to the extent suggested. All that means is that the Council would have to re-assess the New Development Areas and potentially consider identifying further land in order to meet its obligations under **Policy 2** of the NPS-UD. This identification process will be in accord with the various statutory obligations set out in sections 74 and 75 and the First Schedule of the RMA, including the evaluation required under section 32.
67. In that regard I note that such as assessment is much wider than the consideration of a particular site, and certainly does not obligate the Council to approve PC31 regardless of the other considerations set out in the balance of the NPS-UD. PC31 must demonstrate that it will add significantly to development capacity, and furthermore that this capacity can be adequately serviced. In my opinion any shortfall in projected development capacity does assist PC31 in the context of whether it is considered significant in terms of what it adds to current development capacity.

68. I understand that the proposed 850 to 900 households that will be created within the PC31 area represents around 3.4% of the existing dwellings in the District. In the absence of any specific guidance on what constitutes “significant”, I consider that the 850 to 900 lots anticipated by the proposal represents a significant development capacity. I note that the size of the PC31 land area is at least comparable to some of the FDA identified on Map A in Chapter 6 of the CRPS.
69. In terms of servicing, I note the comments made at paragraph 7.3.71 of the section 42A report that it is not clear whether potable water and stormwater can be adequately provided. I agree with Mr Willis that where there is uncertainty that development can be appropriately serviced then it cannot be said to add to development capacity. Mr Bishop notes in his evidence that there appears to be viable servicing options, but that further investigations are required and/or further consents might be required. Depending on the degree of certainty around the ability to deliver servicing outcomes, there remains the potential that PC31 would not give effect to **Objective 6** and **Policy 8** of the NPS-UD.

#### ***Well-functioning urban environment***

70. **Policy 1** of the NPS-UD sets out what constitutes a well-functioning urban environment, and requires that planning decisions contribute to such environments. A well-functioning urban environment must meet all of the criteria in the policy, which includes that they:
- (a) have or enable a variety of homes that:*
    - (i) meet the needs, in terms of type, price, and location, of different households; and*
    - (ii) enable Māori to express their cultural traditions and norms; and*
  - (b) have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and*
  - (c) have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and*
  - (d) support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and*
  - (e) support reductions in greenhouse gas emissions; and*
  - (f) are resilient to the likely current and future effects of climate change.*
71. In my view the context of PC31 raises matters under **Objective 4**, which recognises that urban environments, including their amenity values,



develop and change over time in response to the diverse and changing needs of people, communities, and future generations. I note the evidence of Mr Knott where he considers that the significance of the change proposed at Ohoka goes beyond that anticipated under the NPS-UD and therefore the adverse effects of this development should not be 'discounted' as set out in Policy 6(b) of the NPS-UD.

72. In terms of Clause (a), 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 net density of 12 households per hectare, averaged only over the Residential 2 zoned land.
73. **Objective 2** of the NPS-UD is that planning decisions improve housing affordability by supporting competitive land and development markets. There appears to be no provision for affordable housing within PC31, excepting through providing an increased housing supply in an area where there is demand for standalone housing which might have some downward pressure on price. In that narrow context I question whether PC31 is meeting the needs of different households in terms of type, price and location.
74. In terms of (b), the proposal includes Business 4 zoned land to provide for the convenience needs of the future residents.
75. In terms of (c), based on the advice set out by Mr Binder and the evidence of Mr Metherell, I do not consider that the proposal has good accessibility for all people between housing, jobs and community services, including by way of public or active transport. Therefore, in my view the Applicant has not demonstrated that the proposal meets clause c).
76. In terms of Clause (d), it is my understanding that PC31 will contribute to the competitive operation of land and development markets, but that this will not be material. In terms of (e), there remain questions as to whether this development proposal supports greenhouse gas emissions given the reliance on commuter travel for employment purposes, most likely being within Christchurch City. In terms of (f), I am not aware of any particular concerns in terms of the resilience of the PC31 site to cope with the future effects arising from climate change.

77. Overall, based on the evidence, I do not consider that it has been demonstrated that PC31 results in a well-functioning urban environment.
78. The scale and extent of residential development proposed by PC31 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. PC31 takes the existing rural settlement of Ohoka and extends it southwest towards Mandeville. The majority of land between the southern extent of the PC31 area and the Mandeville residential zoned land is already developed to a density of 1 to 2ha allotments. This will create a scenario whereby the two settlements will effectively appear as one with little in the way of open rural character to differentiate between the communities.
79. The reliance on the NPS-UD requires a significant contribution to housing capacity, which in turn means there is little opportunity to reduce the scale of the proposal in a way that would reduce the impacts of PC31 such that it represented a well-functioning urban environment. In summary, the scale of PC31 is too large in the context of the receiving environment, and the extent of the change required to meet **Objective 1 /Policy 1** in terms of urban design is such that the proposal would consequently most likely not meet the qualifying criteria in terms of significant development capacity (**Policy 8**).

## Conclusions

80. In conclusion, I consider that **Policy 8** of the NPS-UD provides an opportunity to allow consideration of an unanticipated or 'out of sequence' development proposal that meets the significant capacity threshold and represents a well-functioning urban environment (**Objective 1/Policy 1**). As the higher order document, the NPS-UD provides such an "opportunity" that might otherwise be precluded by the CRPS and other planning documents (including the ODP). This reflects the central government objectives to facilitate greater opportunities for urban growth and housing.
81. The NPS-UD direction for decision-makers to be responsive does not extend to simply approving all development. My concerns relate primarily around whether PC31 will contribute to a well-function urban environment as defined by **Policy 1** of the NPS-UD. These concerns are primarily in terms of urban form and connectivity/accessibility given that Ohoka Settlement is not a key Activity Centre and the impact on the

rural character of the area more broadly given the relative scale of what is proposed.

82. In my view there are more suitable alternatives were the sequencing of infrastructure and connectivity by way of existing transport networks provide far better accessibility for people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport. Furthermore, alternative locations would better enable a diversity of housing types, including the intensification anticipated by the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021. This would in terms result in better outcome sin terms of housing supply and affordability that can be achieved through PC31. On that basis I do not consider PC31 meets the threshold to justify a reliance on **Policy 8** of the NPS-UD.
83. In the absence of the ability to rely on the opportunity provided by the NPS-UD, I consider PC31 must be considered against the applicable provisions to determine whether PC31 is the most appropriate way to achieve the purpose of the RMA. My assessment of the CRPS and ODP above is such that PC31 is not supported, does not represent sustainable development and should be refused having regard to the relevant statutory considerations.

Date: 21 July 2023



**Nick Boyes**