

The following details are summarised from this report:

- (a) The most highly productive land , being LUC 1-3, is vulnerable to fragmentation;²²
- (b) Between 2002 and 2019 highly productive land used for urban or residential land use in New Zealand, and hence not available for farmland, increased by 54% from 69,920ha to 107,444ha;²³
- (c) Nationally between 2002 and 2019 highly productive land became more fragmented and the area of small-sized land parcels (2 – 8ha) increased by 5,383ha;²⁴ and
- (d) Canterbury had the largest increase in highly productive land area allotted to small-sized parcels with an increase of 14,369ha (or 33%) from 2002 to 2019. However, of this area there was a 129% (23,166ha) increase in the area of small-sized parcels with a dwelling. This indicates that a significant amount of previously subdivided land had a dwelling erected between 2002 to 2019.²⁵

44. Statistics NZ's "Our Land 2021" report also addressed the issue of land fragmentation.²⁶ The following are some key extracts:²⁷

- (a) Many of New Zealand's cities have developed on and around food producing land, with market gardens providing a local food supply for urban dwellers;
- (b) Fragmentation of highly productive land by subdivision can shift the land out of commercial production. This happens particularly with the development of lifestyle blocks;
- (c) Highly productive land became more fragmented between 2002 – 2019, especially through residential development of land sized 2 –8ha. The largest increase in fragmentation (2 – 8ha with a house) occurred in Canterbury; and

²² <https://www.stats.govt.nz/indicators/land-fragmentation> - Section "Why is it Important"



²³ <https://www.stats.govt.nz/indicators/land-fragmentation> - Section "For land restricted from use as farmland"

²⁴ <https://www.stats.govt.nz/indicators/land-fragmentation> - Section "For land potentially available for use as farmland"

²⁵ <https://www.stats.govt.nz/indicators/land-fragmentation> - Section "For land potentially available for use as farmland"

²⁶ *Our Land 2021: New Zealand's Environmental Reporting Series*, prepared by the Ministry for the Environment and Stats NZ, published April 2021 and available at *Our Land 2021* | Ministry for the Environment

²⁷ *Our Land 2021: New Zealand's Environmental Reporting Series*, prepared by the Ministry for the Environment and Stats NZ, published April 2021 and available at *Our Land 2021* | Ministry for the Environment. See p20.



- (d) The way fragmentation happens can also increase the demand for future subdivision. If lifestyle blocks are scattered across an area, the agricultural land in between is also likely to become fragmented. Land fragmentation can limit the options for land use today and in the future.
45. Although the District has two main towns in Rangiora and Kaiapoi, the KPMG report referred to above, indicated a significant amount of productive rural land has been converted to lifestyle properties by people moving from Christchurch and commuting to the city for work.²⁸ The single rural land zoning in the Waimakariri District and improved motorway access to Christchurch has contributed to this increase in subdivision of land down to 4ha for lifestyle blocks.²⁹
46. Exhibit C to Ms Downie's affidavit, shows the distribution of land parcel sizes within the Proposed Rural Zone and Proposed Rural Lifestyle Zone. It is evident that within the Proposed Rural Lifestyle Zone in the East of the District, there is already a high concentration of small land parcels. Within the Proposed Rural Zone there is also a growing number of small land sizes, particularly between the Ashley and Eyrewell rivers where there are large areas of deeper more productive soils (refer Figure 1 above).³⁰ Between the Ashley and Eyrewell Rivers there are a large number of 8 to 39.9ha parcels. Given these land parcels are smaller they could be more prone to subdivision if the owner thought that future subdivision was going to be curtailed.
47. Movement of urban residents into rural production areas can also lead to conflict with regards to what are acceptable farming practises (reverse sensitivity). Some agricultural practises, such as operating large machinery after hours, management of farm animals, odours specific to farm operations (for example making silage), burning, spraying and fertilising paddocks, pest control, bird scaring, frost protection and movement of slow vehicles or livestock on roads could be deemed unacceptable by a neighbouring lifestyle property owner. However, curtailing these activities could impact on the farm's productivity and on operational costs.
48. An increase in the minimum land size to 20ha will reduce the attractiveness of this land for lifestyle purposes and will generally provide sufficient size for it to be farmed in a manner that will maintain production and profitability per

²⁸ KPMG 'Waimakariri District Council Rural Futures Analysis, Future Agri-Food Scenario Planning for a Prosperous District, May 2018 at p4

²⁹ Ibid.

³⁰ See paragraphs 38 and 41 in Ms Downie's affidavit.



hectare. A reduction in the number of new lifestyle properties will reduce the number of houses and associated buildings, further resulting in a reduction in the amount of land that becomes ineffective or unavailable for rural production purposes.

Land area required to sustain rural production

49. The minimum land size required to maintain rural productivity is not necessarily determined by the overall area required to sustain a profitable business. The critical consideration tends to be whether sufficient contiguous land area is required to implement production systems that optimise the performance per hectare. The minimum required land area will alter depending on soil type, climate, topography, access to irrigation and the type and intensity of the farm system. The following examples demonstrate the importance of economies of scale and why a minimum land area is required:
- (a) **Infrastructure Investment:** A minimum level of business size is required to invest in critical infrastructure such as advanced irrigation systems. Whilst many lifestyle properties will have some form of irrigation, it may not be the correct type or have the required technology to grow specialist crops or irrigate pasture efficiently.
 - (b) **Compliance:** With an increasing focus on environmental sustainability, farm monitoring and auditing costs have increased significantly. Many of these costs are fixed and the cost per hectare increases as the farm size reduces. It may also be more difficult to introduce improvement or mitigating measures (such as cropping rotations and improved irrigation systems) on smaller properties.
 - (c) **Production Costs:** There are a number of fixed costs associated with primary production that become excessively high per hectare when farming small areas. For example, contractors, transport companies and service people will charge at a higher rate per hectare on small properties due to travel time and the increased time per hectare required to cultivate, spray etc. small paddocks. Furthermore, agricultural equipment has increased in size to gain efficiencies and are generally not suited to small paddocks.
 - (d) **Leasing of Land:** Some larger operators and end users who grow high value seed crops or vegetables lease ground to grow annual crops. Discussions with a prominent seed producer and marketer in 2018



indicated that 10ha would be the minimum area they would lease to grow a crop of speciality seed. A potato grower spoken to indicated a minimum size of 20ha. Land leased for livestock grazing (e.g dairy support) could be smaller paddocks but an area of at least 20ha would be required for a reasonable mob (100 head) of dairy heifers.

- (e) **Pasture Renewal and Cropping Rotations:** To maintain pasture productivity, regular grass renewal needs to be undertaken. This is seldom done on lifestyle properties and as a result the annual herbage production will be significantly less on these properties than on larger commercially operated farms. Pasture renewal is often part of a cropping cycle and this is important as many crops cannot be grown in successive years. For example, potatoes require a 6 to 8 year gap between crops. On smaller properties, sufficient scale is required to introduce a cropping and re-grassing programme.
- (f) **Grazing Management:** To maintain feed quality and to best utilise the feed grown in intensive livestock systems, a rotational grazing system is required, where the animals fully graze an area (paddock) within 1 to 2 days and then move to a new area. This is generally undertaken on a 20 to 30-day rotation meaning each grazed area has time to re-grow before being grazed again.

50. In the “Rural Production Advice – Rural Land Zoning” document,³¹ I proposed a range of minimum productive land areas for different primary production systems within the Proposed Rural Zone from 10 to 15ha up to 100ha, as set out in Table 1 below.

Table 1: Minimum Area by Land use³²

Production System	Minimum Productive Area (Hectares)
Speciality Small Seeds (e.g. Carrot, Ryegrass)	10 - 15
Vegetables (e.g. Potatoes)	15 - 20
Dairy Support and Dairy	20 - 40
Mixed Cropping/Livestock	20 - 40
Intensive Breeding Finishing	40
Extensive Breeding and Finishing	100

³¹ "Rural Production Advice - Rural Land Zoning report", produced for the Waimakariri District Council by J Gordon in 2018 at p14 and 15.

³² Refined from Rural Production Advice - Rural Land Zoning report produced for the Waimakariri District Council by J Gordon in 2018, Table 2 at p15.

51. My opinion in the Rural Production Advice to WDC was informed by literature reviews, financial analyses and discussions with relevant industry personnel and what I have seen and heard during my years in the industry. Whilst there will be some exceptions, particularly in horticulture, I believe these areas are still applicable today to sustain rural production and profitability.
52. It should be noted that the above areas are considered effective areas for primary production systems and that the introduction of dwellings, sheds and associated land used for domestic purposes will reduce the effective area of the land parcel.
53. Smaller lot sizes may be sustainable for intensive vegetable or horticultural production systems, for example fresh produce, glasshouses and tunnel houses. I understand Horticulture New Zealand has provided feedback in response to the issues and options consultation for the District Plan Review. Horticulture New Zealand said:³³

“the Waimakariri District is becoming a more desirable location for horticulture. Of particular appeal to vegetable growers are the large land parcels (20 – 50ha) that remain in the Waimakariri District. However, some crops, and in particular covered crops, are economically viable when grown on smaller land parcels (2ha – 10ha).”

54. Small lifestyle properties (less than 8ha) are not usually, in my opinion, capable of sustaining many rural production systems in the Proposed Rural Zone and will generally impact negatively on the rural production per hectare. The following are a number of reasons for this:
- (a) Insufficient management expertise such as crop husbandry, grazing management, irrigation, soil nutrient management and agricultural business management;
 - (b) A significant area of lifestyle properties is used for houses, buildings, grounds and non-productive activities such as grazing horses and ponies;
 - (c) Insufficient business size to invest in the best infrastructure and technologies;
 - (d) Insufficient land size to grow the best crops and to implement a suitable cropping rotation;

³³ Horticulture New Zealand – Comments of the Waimakariri District Plan Review – Issues and Options Papers, September 2017, p2.

- (e) Reduced re-grassing resulting in poorer producing and lower quality pastures. Re-grassing is generally not undertaken as often on a lifestyle property due to:
 - (i) lack of a cropping and re-grassing programme;
 - (ii) lack of management expertise; and
 - (iii) the high cost of preparing and re-grassing small paddocks.

55. Grazing management of pasture is also important to optimise production in a pastoral system. Grazing management on small lifestyle properties is often poor given the lack of paddocks, livestock numbers and management expertise.

Consequences of allowing 4ha subdivision in the Proposed Rural Zone

56. The ability to subdivide any parcels of land within the Waimakariri District to 4ha has led to a proliferation of lifestyle properties within the District.³⁴ Given there is limited control where this can happen, subdivision has occurred regardless of the productive potential of the land. This is particularly evident with the large number of lifestyle properties in the eastern areas of the District and between the Eyre and Ashley Rivers.³⁵ Much of the area that has been subdivided would have been productive farmland with good soils, flat topography and lower altitude.
57. The expansion of irrigation in the District and the associated change in farm systems will have certainly increased the ability to improve rural production within the Waimakariri District. However, with few exceptions, farmland subdivided for lifestyle purposes will have a negative impact on the rural production potential from that land. The greatest production impact will be on the more productive and irrigated land classes, given their greater production potential per hectare. Whilst there would be less impact on extensive pastoral land and any dryland parts of the land south of the Eyre River, given their lower productive potential per hectare, subdivision of that land class for lifestyle blocks will still generally lower the rural production output.
58. A proliferation of lifestyle properties in the Waimakariri District would generally impact the productive output of the subdivided land, regardless of the existing farm system, due to a reduction in output per hectare of effective

³⁴ See in particular paragraph 27 and 28 above.

³⁵ See Exhibit C in Ms Downie's affidavit.



area, and the reduction in effective land area as a result of land being used for buildings and non-productive purposes. The introduction of lifestyle properties within a rural community could also impact the production of larger neighbouring farms if reverse sensitivity³⁶ impedes farm practices that are critical in optimising farm production. The conversion of productive farmland to lifestyle properties could also preclude the ability of this land to adopt new rural production opportunities in the future given it is being used primarily for residential purposes and the increased land value and reduced land size could result in the land being too expensive or small to support rural production.

59. A number of people that own medium sized landholdings (8 – 40ha) could, under the Operative Plan, subdivide at any time and sell all or parts of their property to increase their financial security. In my experience, subdivision can be used as a mechanism for reasons such as a superannuation scheme for the farmer, to provide finance for other investments or to financially assist family members. However, a consequence of this is that the land will lose critical size and the rural production per hectare will generally decline. There would also be a reduction in effective productive land area and reverse sensitivity may impede other farmers activities, reducing the productivity of rural land in the Waimakariri District.
60. Farmers with larger land holdings may also subdivide small parcels to reduce debt or as part of a family succession process. This is a mechanism by which a farmer can raise funds without reducing land area significantly and, therefore, maintaining the scale and viability of the remaining farm. A small reduction in land area due to the sale of lifestyle blocks should not reduce the productive capability per hectare of the remaining farm area, provided reverse sensitivity does not impact farming operations. However, it is likely that the land sold for lifestyle properties will have a lower productivity per hectare than when it was part of the larger commercial farm.
61. Should the minimum lot size of 4ha be maintained for the next two years – but with farmers knowing that might change to 20ha - I believe there is a high likelihood that the subdivision of land will escalate as landowners look to protect their financial future and take advantage of the higher value of lifestyle blocks per hectare than if they were sold for commercial farming. This could be wide ranging as even farmers who have no short-term intention

³⁶ See paragraph 47 above regarding reverse sensitivity.



to sell land could subdivide so they have more options in the future. As a business, many farming enterprises have a relatively low return on capital invested in land and infrastructure and, therefore, farmers will see it as important that their asset value is protected or enhanced. Subdivision to 4has should enhance the overall farm value given the future opportunity to subdivide for lifestyle properties.

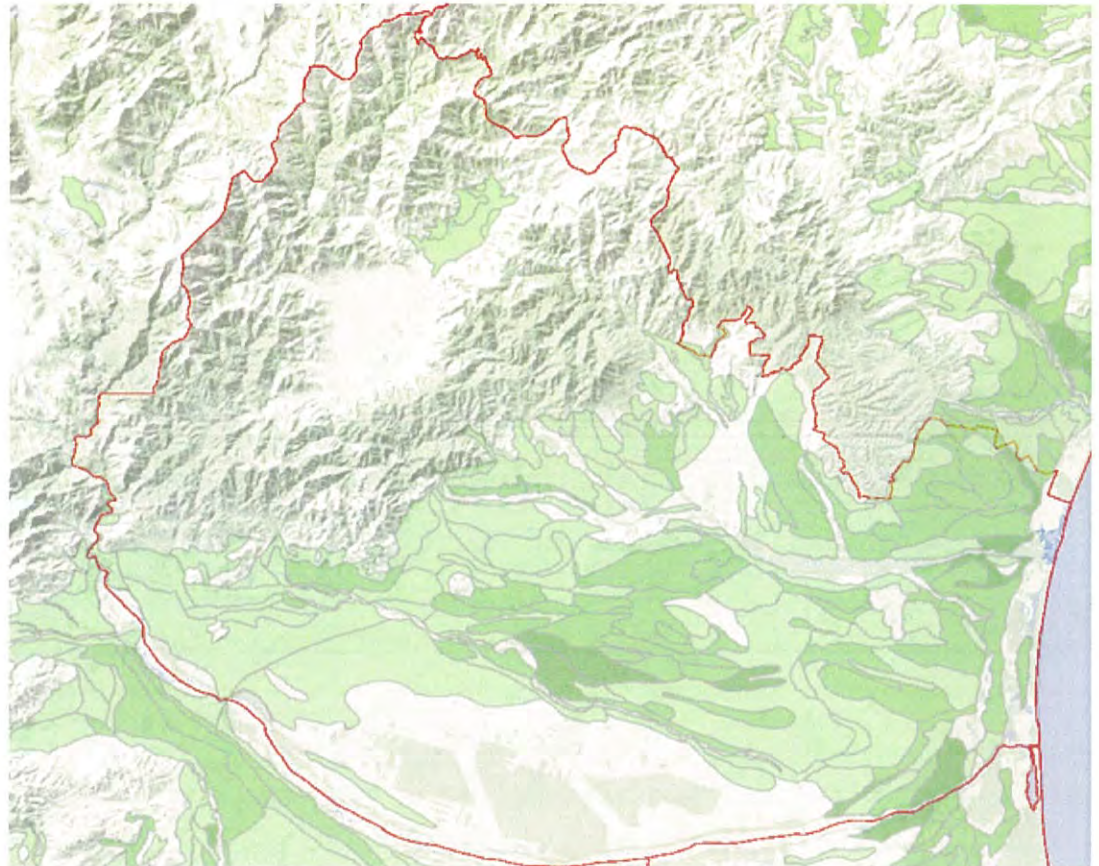
62. In my opinion, I would expect that much of the land subdivided in the next two years would not be sold immediately, and would be maintained as productive farmland. However, due to the Legacy Provisions,³⁷ I understand there will be an opportunity for the subdivided land to be sold off in the future. If the land is sold as lifestyle properties and farmed separately, the production per hectare will generally decline and if a house is erected it could preclude future land use options. Reverse sensitivity may also impact the production of surrounding farmland.
63. The New Zealand Resource Inventory (**NZLRI**) classifies LCU 1 – 3 to be the most highly productive land in New Zealand, being the most versatile and of highest value for primary production.³⁸ Figure 6 shows that the District has a high prevalence of LCU 1 - 3. A continued loss of these LCU's will result in a reduction in agricultural versatility and diversification and lower overall rural production. Some of the rural production systems undertaken on LCU 1 - 3 cannot be efficiently transferred to other land classes and, therefore, a conversion of this highly productive land to lifestyle properties would either curtail these systems or make them significantly less efficient. The better land classes can also be complimentary to the lesser land classes as often livestock is transferred from less productive land classes to LCU 1 – 3 for finishing.³⁹

³⁷ The Legacy Provisions provide land use "rights" to build a residential unit and minor residential unit on already subdivided properties in future.

³⁸ The New Zealand LUC Classification ranks land classes from 1 to 8 with 1 being the most productive and versatile land class and 8 being unsuitable for primary production.

³⁹ Refer paragraph 40 above.

Figure 6: Highly Productive Land in the Waimakariri District⁴⁰



NZLRI LUC Classes 1 - 3 (Land Resource Inventory)



Region Base

Territorial Authority Boundaries



64. The obvious benefit to introducing a 20ha minimum land size is that it will maintain land area that is suitable for rural production. As previously stated, subdivision for lifestyle purposes generally reduces the productive capability of the land, can impact neighbouring farms through reverse sensitivity and can raise land values beyond what commercial farmers can afford to purchase.
65. An immediate increase in minimum lot size to 20ha could reduce land values as the potential to subdivide and take advantage of higher land values

⁴⁰<https://mapviewer.canterburymaps.govt.nz/?webmap=5a110e6e351d400e8f59aaa3b6c17053&extent=1508900,5186600,1583100,5246200,2193>

achieved for lifestyle property development would diminish. When land is subdivided for lifestyle properties, the value per hectare generally rises significantly. When this occurs, the land value can exceed the economic value of the land that would enable farmers to purchase it and utilise profitably alongside their current farm system. Whilst this can help underpin the equity of existing landowners, it can make it difficult for farmers to expand and/or new farmers to get established. A decrease in land values would decrease the equity of some landowners for the next two years. This would impact any landowners who had to sell during this period, for example those under financial pressure or who have made other financial investments and have to sell the land to fund the investment. In some instances, financial institutions may be reluctant to provide finance to an existing landowner due to their reduced equity position. A reduction in equity could also impact a farmer's ability to invest both on farm or in another enterprise if they are not able to borrow further funds.

66. In my opinion, landowners who will be adversely impacted by the minimum lot size being raised to 20ha for approximately two years until the Proposed Plan is decided can be grouped into two categories:
- (a) Assuming the increase to a minimum lot size of 20ha will negatively impact land prices, landowners who are required to sell land during this period, for example due to financial pressures, employment relocation, will suffer a reduction in equity. Others who want to sell but have discretion on sale timing, could wait until the Proposed Plan is decided.
 - (b) If land prices decrease and a landowner's equity reduces, this could impact their ability to borrow further money for investment on farm or off farm. For example, a person may wish to use the land for security to purchase an off-farm investment or to build a house on the property. If the land value decreases, the financial institution may be reluctant to advance funding for this extra investment or development. This is more likely to impact owners of moderate sized land holdings close to areas that are considered desirable locations for lifestyle properties. Again, if landowners have a choice, they might choose to wait instead for decisions on the Proposed Plan because I understand the 20ha proposal could be changed in that process.
67. As properties over 20ha in size are not generally considered a lifestyle property, an increase of the minimum lot size to 20ha could lead to a



perception that the availability of lifestyle properties will diminish. This might increase the value of existing smaller subdivided blocks suitable for a lifestyle property, both bare land and established, increasing the equity position of the owners of these properties.

AFFIRMED at Christchurch this)
13th day of July 2021)

before me:



James William Gordon



William Andrew Leathart Todd
Solicitor
Christchurch

A Solicitor of the High Court of New Zealand

IN THE ENVIRONMENT COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY

I MUA I TE KŌTI TAIAO O AOTEAROA
TE ŌTAUTAHI ROHE

ENV-2021-CHC-

IN THE MATTER OF the Resource Management Act 1991 (Act)

AND

IN THE MATTER OF an ex parte application pursuant to section 86D of the
Act for rules in the proposed Waimakariri District Plan
to have legal effect upon notification

BY **WAIMAKARIRI DISTRICT COUNCIL**

Applicant

AFFIDAVIT OF MARGARET JANE WHYTE

PLANNING

Affirmed 13 July 2021

BUDDLE FINDLAY

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I, **Margaret Jane Whyte** of Christchurch, director of Response Planning

Consultants Limited, affirm:

1. I am a director of Response Planning Consultants Limited. I have over 29 years planning and resource management experience.
2. I hold the degrees of Bachelor of Arts and Master of Regional and Resource Planning from Otago University. I am a full member of the New Zealand Planning Institute.
3. I am a certified hearings commissioner, holding a Chair endorsement. I have acted as a Commissioner on resource consent and plan change applications.
4. A core area of my planning and resource management practice is policy development and the evaluation of statutory planning documents prepared under the Resource Management Act 1991 (**RMA**). I have written, and been involved in, the preparation of District Plans, plan changes and variations (including privately requested plan changes). I have also evaluated a number of District Plans and changes to District Plans, Regional Plans and changes to Regional Plans, and Regional Policy Statements. I have prepared submissions, further submissions, evidence and section 32 evaluations on these documents. My work has involved the evaluation and implementation of National Policy Statements and providing evidence (in the form of an affidavit) on the Draft National Policy Statement for Freshwater Management 2019 and National Environmental Standards for Freshwater.
5. Another area of my practice is the preparation and evaluation of assessments of effects and resource consent applications. This has provided me with the experience of implementing provisions within statutory planning documents, including Regional Policy Statements, Regional Plans and City and District Plans. I have sought and obtained land use consents, subdivision consents, water permits and discharge consents and variations to consent conditions for a variety of clients. Many of these have been in rural areas.
6. I have been involved with the preparation of the proposed Waimakariri District Plan (**Proposed Plan**) since May 2019. I am the chapter lead for the provisions in the proposed Rural Zones comprising the General Rural Zone (**Proposed Rural Zone**) and the Rural Lifestyle Zone (**Proposed Rural Lifestyle Zone**). In this capacity I have primary responsibility for drafting the provisions that apply in these zones.

7. Waimakariri District Council (**WDC**) requested I provide evidence relating to the provisions that apply to density of residential development and subdivision within the Proposed Rural Zone for its application for an order that rules in the Proposed Plan have immediate legal effect on notification of the Proposed Plan (**Application**). To provide context I address the provisions in the Operative Waimakariri District Plan (**Operative Plan**) and identify what is proposed to change in the Proposed Plan.

Code of conduct

8. I have read the Code of Conduct for Expert Witnesses set out in the Environment Court Practice Note 2014 and agree to comply with it. I have considered all the material facts that I am aware of that might alter or detract from the opinions I express and confirm that the matters covered in this affidavit are within my area of expertise, except where I state that I am relying on the evidence of another person.

Scope

9. My evidence covers:
- (a) The rules for which immediate legal effect is sought (**ILE Rules**).¹
 - (b) The District planning framework in respect of residential density and minimum lot size for rural subdivision including:
 - (i) the existing approach under the Operative Plan;
 - (ii) the approach in the Proposed Plan;
 - (iii) a comparison of the regulatory changes between the Operative Plan and the Proposed Plan.
 - (c) The potential impact of the regulatory changes on landowners from a planning perspective
 - (d) The strategic importance of the 20ha threshold for residential density and subdivision;
 - (e) The relevant higher order planning framework.

¹ Rule GRUZ-R41, Rule GRUZ-R42, Rule SUB-R14 – as set out in Exhibit A.

Use of terms

10. Within this affidavit I address the density of residential units, minor residential units and the minimum lot size required for subdivision. These matters are addressed in both the Operative Plan and the Proposed Plan. While they address the same matters, the terms used are different. For ease of reference within this evidence I have used the terms consistently to describe the activity, irrespective of the terminology used in the individual Plans. Below I have provided a summary of the terms used.

Terms used in the Operative Plan	Terms used in the Proposed Plan	Terms used in my Affidavit
Dwelling Dwellings Dwellinghouse Primary Dwellinghouse	Residential Unit	Residential Unit
Dwelling density	Residential density Density of Residential Unit Minimum residential density	Minimum Residential Density
Secondary Dwelling Dwellinghouse 75m or less	Minor Residential Unit	Minor Residential Unit
Minimum Lot Size Minimum Allotment Size Minimum Subdivision Size	Minimum Allotment Minimum Lot Size Minimum Subdivision Size Minimum Allotment Size	Minimum Lot Size
Allotment Lot	Allotment Lot	Lot
Site Minimum Site Size	Site Minimum Site Size	Site
Subdivision	Subdivision	Subdivision

Handwritten signature/initials

Executive summary

11. Generally, the Proposed Plan approach increases (from 4ha) the minimum residential density and minimum lot size requirements in the Proposed Rural Zone to:
 - (a) One residential and one minor residential unit on 20ha, unless addressed in a legacy clause;
 - (b) A minimum lot size for subdivision of 20ha.
12. The key drivers for the change in minimum residential density and minimum lot size are:
 - (a) Productive potential; and
 - (b) Rural character.
13. An activity breaching the density and/or minimum lot size requirements is proposed to require resource consent as a non-complying activity.
14. The consequences of the ILE Rules are:
 - (a) The number of residential units that could be established throughout the Proposed Rural Zone is reduced, compared to the Operative Plan, for any property over 8ha in area (given the existing 4ha minimum); and
 - (b) The number of new lots that can be created by subdivision is also reduced, compared to the Operative Plan, for any property over 8ha in area.
15. The ILE Rules are intended to implement new objectives and policies. In my opinion, the proposed objectives and policies would make it very difficult for non-complying resource consents to be obtained.

Rules for which immediate legal effect is sought

16. The ILE Rules are set out in **Exhibit A** to my affidavit. The ILE Rules restrict both land use and subdivision activities.

17. There are two land use rules:
- (a) Land Use - Rule GRUZ-R41² which specifies circumstances when a residential unit in the Proposed Rural Zone is a non-complying activity; and
 - (b) Land Use - Rule GRUZ-R42³ which specifies circumstances when a minor residential unit in the Proposed Rural Zone is a non-complying activity.
18. These rules rely on the application of two proposed definitions, being *Residential Unit* and *Minor Residential Unit*. These definitions are both definitions contained in the National Planning Standards⁴ as mandatory definitions that the Proposed Plan must use.
19. There is one subdivision rule - Rule SUB-R14⁵ - which specifies when subdivision in the Proposed Rural Zone is a non-complying activity.

District planning framework concerning Minimum Residential Density and Lot Size for subdivision Minimum

Operative Plan

20. The status quo provisions are those in the Operative Plan that apply to land in the Operative Rural Zone.⁶
21. The Operative Rural Zone covers a large area of the Waimakariri District, approximately 217,776.68 ha or 98% of the total land in the District. It covers all areas, other than towns, settlements or rural residential areas. I have attached a copy of a Map titled "*Operative Rural Zone*" as **Exhibit B** to my affidavit which shows:
- (a) The Waimakariri District (the yellow area and the white areas within that yellow area);

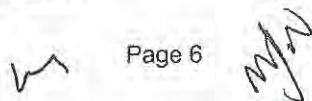
² Subsequent to the resolution of Council relating to this application the addition of an unrelated rule in the Proposed Rural Zone has changed the rule reference from GRUZ-R40 to GRUZ-R41. The wording of the rule has not changed only the rule number.

³ Subsequent to the resolution of Council relating to this application the addition of an unrelated rule in the Proposed Rural Zone has changed the rule reference from GRUZ-R41 to GRUZ-R42. The wording of the rule has not changed only the rule number.

⁴ National Planning Standards November 2019 – 14 Definitions Standard (see pages 53-65).

⁵ Subsequent to the resolution of Council relating to this application the deletion of an unrelated rule in the Proposed Subdivision Chapter has changed the rule reference from SUB-R15 to SUB-R14. The wording of the rule has not changed only the rule number.

⁶ There are three Rural Zones within the Operative Plan being the Rural Zone, the Mapleham Rural 4B Zone and the Pegasus Rural Zone. The focus in this evidence is on the Rural Zone (The Mapleham Rural 4B Zone and the Pegasus Rural Zone are specific to particular locations, and cover only a small area. These areas are not proposed to be zoned as proposed Rural in the Proposed Plan and have not been further considered).



- (b) The Operative Rural Zone (the yellow area); and
 - (c) Other Zones⁷ (white areas identified within the yellow area). These are primarily townships, settlements and rural residential areas).
22. The Outstanding Landscape and Natural Features overlay is a spatial layer identified on the Operative Planning Maps. There is additional regulation that applies to these areas over and above that applying to land in the Operative Rural Zone. I have attached a copy of a Map titled "*Operative Rural Zone with Outstanding Landscape*" as **Exhibit C** to my affidavit which shows:
- (a) The Waimakariri District (the yellow, white and orange areas);
 - (b) The Operative Rural Zone (the yellow and orange areas); and
 - (c) The part of the Operative Rural Zone where the Outstanding Landscape and Natural Features Overlay applies (the orange area).
23. The objectives and policies applying to the Operative Rural Zone are in Chapter 14 – Rural Zones of the Operative Plan. The relevant rules sit across various chapters:
- (a) Those that address residential density are in Chapter 31 – Health, Safety and Wellbeing;
 - (b) The rules addressing minimum lot size for subdivision in the Operative Rural Zone are in Chapter 32 – Subdivision;
 - (c) The rules addressing subdivision and the location⁸ of residential units in the Outstanding Landscape and Natural Feature Overlay (**Outstanding Landscape Overlay**) are in Chapter 24 – Outstanding Landscapes and Natural Features; and
 - (d) The definitions are in Chapter 1 – Definitions.
24. I have included the relevant provisions in **Exhibit D** to my affidavit.

⁷ These areas include Industrial, Commercial and Residential Zones for example.

⁸ In the Outstanding Landscapes and Natural Features Chapter – it is the location of dwellings that is controlled, not specifically the density. However, this means the erection of any residential unit in this area requires a resource consent as a discretionary activity.



25. In summary, the Operative Plan provides that:
- (a) The development of residential units (including minor residential units) below a density of 4ha and subdivision of a lot below 4ha in the Operative Rural Zone are non-complying activities; and
 - (b) The establishment of a residential unit or a subdivision in an Outstanding Landscape Overlay is a discretionary activity.
26. The objective and policies⁹ that apply in the Operative Rural Zone identify that the focus for Rural Zones is on two matters:
- (a) The enhancement and maintenance of rural production (Objective 14.1.1, Policy 14.1.1.1, Policy 14.1.1.2); and
 - (b) The enhancement and maintenance of rural character (Objective 14.1.1, Policy 14.1.1.1, Policy 14.1.1.3 and Policy 14.1.1.4).

Proposed Plan – Rural Chapter, RURZ

27. The Proposed Plan follows the mandatory structure set out in the New Zealand Planning Standards.
28. The provisions affecting rural land are contained within the Rural Chapter, RURZ. The purpose of the Rural Chapter in the Proposed Plan is described in the introduction as being to enable a range of primary production activities, including pastoral farming, livestock, horticulture, and forestry of less than 1ha¹⁰ as well as other activities that rely on or support the resources within rural zones. Provision is also made for other activities that are compatible with Rural Zones and do not detract from the function of other zones.
29. Two rural zones are proposed being the Proposed Rural Zone and the Proposed Rural Lifestyle Zone¹¹. This is a shift from the Operative Plan approach of one main rural zone.

⁹ There are other objectives and policies that relate to Maori Reserve 873, On-site land-based sewage treatment and wastewater disposal systems, managing sensitive activity's location in relation to noise from the Christchurch International Airport and the Rangiora Airfield, management of rural resource within the Pegasus Rural Zone and management of new residential and rural residential activities outside of urban areas in Greater Christchurch. However, these are not determinative to the matters addressed in this evidence so have not been addressed in detail.

¹⁰ Forestry over 1ha is managed under the National Environmental Standards for Plantation Forestry not the District Plan.

¹¹ The Proposed Plan follows the mandatory framework and zone names prescribed in the New Zealand Planning Standards.

30. A map showing the two proposed rural zones is contained in **Exhibit E** of this Affidavit. This map shows:
- (a) The Waimakariri District (the coloured areas);
 - (b) The Proposed Rural Zone (the orange area);
 - (c) The Proposed Rural Lifestyle Zone (the yellow area);
 - (d) Other zones¹² (grey areas identified within the orange and yellow areas). These are primarily townships, settlements and rural residential areas¹³); and
 - (e) The Natural Open Space Zone¹⁴ (green areas).
31. The Proposed Rural Chapter has objectives and policies that apply to both proposed Rural Zones. Each zone then has an additional objective, policies and rules that apply only to the zone concerned. The key provisions¹⁵ in the Proposed Plan are included in **Exhibit F** to this affidavit.
32. The key difference between the Proposed Rural Zone and the Proposed Rural Lifestyle Zone is the density of residential units and subdivision that is proposed, which is:
- (a) A minimum residential density and/or minimum lot size of 20ha¹⁶ in the Proposed Rural Zone; and
 - (b) A minimum residential density and/or minimum lot size of 4ha in the Proposed Rural Lifestyle Zone.
33. Only the Proposed Rural Zone will experience a change in terms of subdivision and dwelling density standards. Because of this, it makes sense to me that only the Proposed Rural Zone is the subject of the Council's Application.

¹² These areas include Industrial, Commercial and Residential Zones for example.

¹³ Rural Residential Areas in the Proposed Plan are zoned Large Lot Residential. These areas are not part of the Proposed Rural Lifestyle Zone.

¹⁴ The Natural Open Space Zone contains areas where the natural environment is retained, and activities and structures are compatible with the characteristics of the zone. The zone includes open space and recreation land that contains natural, recreation, landscape, cultural and amenity values, and may include ecological linkage reserves.

¹⁵ Aside from Rules GRUZ-R41, GRUZ-R42 and SUB-R14, the Proposed Plan provisions discussed in and annexed to my evidence are draft provisions, which are subject to consideration and approval by Waimakariri District Council.

¹⁶ There are legacy provisions that provide for residential units to be established on sites less than 20ha.

Proposed Rural Zone

34. The objective and policy framework for the Proposed Rural Zone¹⁷ addresses two key matters, being:
- (a) To maintain the potential and ability for land within the Rural Zone to be used for rural production activities both now and for future generations (Objective RURZ-O2, Policy RURZ-P1, Objective GRUZ-01 and Policy GRUZ-P1(1)); and
 - (b) To maintain the rural character of the Proposed Rural Zone (Objective RURZ-O1, Policy RURZ-P1, Policy GRUZ-P1 and Policy GRUZ-P2).
35. In my opinion, the focus of the proposed objectives and policies is on enabling and ensuring a land area focussed toward rural activities, with primary production being the dominant activity.
36. The proposed rules implement this policy direction by (generally) restricting the density of residential development to 20ha and the fragmentation of land (by way of subdivision) to the same 20ha standard. The proposed rules specify that if the minimum density requirements are not met, the activity is a non-complying activity.
37. The density of 20ha must be achieved, unless addressed by a legacy provision. The legacy provisions are written into both the permitted activity¹⁸ and non-complying activity rules.¹⁹ These specify the circumstances where existing sites below 20ha can establish a residential unit and minor residential unit without being a non-complying activity.
38. The proposed rules in the subdivision chapter reflect the character outcomes described in the zone provisions. For the Proposed Rural Zone, Rule SUB-R14 states that if the minimum lot size of 20ha is not met, subdivision is a non-complying activity (unless associated with the development of infrastructure²⁰).
39. The relevant subdivision provisions are included in **Exhibit F** of this Affidavit.
40. I am satisfied the zone and subdivision provisions for the Proposed Rural Zone are consistent and are complementary to each other.

¹⁷ This includes provisions applying only to the Proposed Rural Zone and those provisions applying to both zones.

¹⁸ Proposed Rule GRUZ-P3 and GRU-P5 which are not subject to the immediate legal effect Application.

¹⁹ Proposed Rules GRUZ-41 and GRUZ-42 which are subject to the immediate legal effect Application.

²⁰ Infrastructure is as defined in section 2 of the Resource Management Act.



Tabulated comparison of Operative Plan and Proposed Plan provisions

41. In summary, the provisions of the Proposed Plan reduce the ability to subdivide lots that are 8ha or over within the Proposed Rural Zone, compared to the Operative Rural Zone. The Proposed Plan also reduces the number of residential units and minor residential units that can be erected on properties that are 8ha and over in the Proposed Rural Zone, compared to the Operative Rural Zone.
42. I have completed a tabulated comparison of the relevant Operative Plan and Proposed Plan rules addressing residential density and subdivision. This is set out in **Exhibit G** of this Affidavit.

Potential planning implications of the regulatory changes

43. Ms Downie has addressed potential effects of the Council's Application for immediate legal effect by identifying the number of people and households that could be impacted by the new Rules.²¹ This section of my evidence identifies the activity status for proposed development that would apply under both the Operative and Proposed Plan:
44. For:
- (a) **Lots 7.99ha or below:** These properties will not meet the residential density standards or minimum lot sizes prescribed in either the Operative Plan and Proposed Plan so would require consent as a non-complying activity under both the Operative and Proposed Plans.
 - (b) **Lots sized between 8ha and 39.99ha:** Under the Operative Plan these properties could meet the residential density standards of one residential unit and one minor residential unit per 4ha as a permitted activity and minimum lot size of 4ha as a controlled activity. These properties could meet the Proposed Plan residential density standards which will provide for one residential unit and minor residential unit per 20ha as a permitted activity. However, the minimum lot size of 20ha in the Proposed Plan would not be met and subdivision would require consent as a non-complying activity.²²
 - (c) **Lots over 40ha:** Under the Operative Plan these properties could meet the residential density standards of one residential unit and one

²¹ Evidence of Ms Downie at paragraphs 89 to 91 and Table 7.

²² Unless provided for in a legacy clause addressed in paragraph 45(a)-(d).

minor residential unit per 4ha as a permitted activity and minimum lot size of 4ha as a controlled activity. These properties could meet the Proposed Plan residential density standards which will provide for one residential unit and minor residential unit per 20ha as a permitted activity. They can also meet the minimum lot size of 20ha as a controlled activity.

45. In recognition that there are a number of existing properties between 4-20ha within the Proposed Rural Zone, legacy provisions have been included in the Proposed Plan provisions. The legacy provisions recognise the following circumstances:
- (a) An existing site between 4-20ha with no residential unit or minor residential unit – the legacy provisions allow, as a permitted activity, one residential unit and one minor residential unit on the site.
 - (b) An existing site between 4-20ha with a residential unit but no minor residential unit – the legacy provisions allow, as a permitted activity, one minor residential unit on the site.
 - (c) A lot between 4-20ha created on a subdivision approved prior to the notification of the Proposed Plan but for which a certificate of title has yet to be issued – the legacy provisions allow, as a permitted activity, one residential unit and one minor residential unit on the lot.
 - (d) An existing title less than 4ha which was created by a subdivision consent approved between 1 October 1991 and 24 February 2001 (inclusive of both dates) – the legacy provisions allow, as a permitted activity, one residential unit and one minor residential unit on the site.
46. The comparison of regulations in the Operative Rural Zone and the Proposed Rural Zone shows that (other than for existing lots 7.99ha or below) the development opportunities for residential units, minor residential units and subdivision are reduced. While the legacy provisions go some way to ameliorating the impact of the change, there is a decrease in the potential to develop residential units over that provided in the Operative Rural Zone.
47. I expect that obtaining consent for a non-complying activity would be difficult under both the Operative and Proposed Plans. I therefore consider it unlikely such applications would be granted no matter which regime applied.

Strategic importance of the 20ha threshold

48. Ms Downie has addressed the work commissioned by the Council relevant to rural areas of the District and has addressed the consultation undertaken before and during the development of the Proposed Plan.²³
49. From the reports I reviewed, it became apparent to me that maintaining the status quo of a single rural zone with a subdivision and residential density of 4ha was not going to maintain either productive potential nor rural character and amenity values. From my perspective, this meant either the objectives for the rural area needed to substantially change, moving away from maintaining rural production potential and an open rural character, or the minimum residential density and minimum lot sizes needed to change.
50. In my capacity as an external expert planner I attended a number of sessions with the Waimakariri Councillors regarding development of the Proposed Plan. Maintaining the productive potential of rural areas was consistently identified as a key outcome for rural areas. This included ensuring that rural activities could operate in rural areas without reverse sensitivity effects resulting from incompatible activities. Those meetings also identified the retention of rural character as a key driver for the rural areas.
51. I observed how influential these matters were to WDC, when it came to selecting a minimum size for residential density and subdivision. My observations are that WDC took into account a range of expert, community and staff advice relating to productive potential, rural character and how policy aspirations could be achieved via the Proposed Plan rules. WDC then exercised informed judgment and decided to pursue the 20ha minimum.

Higher order planning framework

52. In this section I address relevant national and regional higher order documents.

National Policy Statement for Highly Productive Land

53. The New Zealand Government has recently undertaken public consultation on a proposed National Policy Statement for Highly Productive Land (NPS-

²³ See in particular paragraphs 55 and 57 to 83.

HPL). A summary of the NPS-HPL has been released and consulted on.²⁴

This identifies that:

The overall purpose of the proposed NPS-HPL is to improve the way highly-productive land is managed under the Resource Management Act 1991 (RMA) to:

- recognise the full range of values and benefits associated with its use for primary production
- maintain its availability for primary production for future generations
- protect it from inappropriate subdivision, use, and development.

54. Submissions have been received and were summarised.
55. In my opinion, the draft NPS-HPL supports Council's proposal, in that it also identifies that maintaining the availability of land for primary production for future generations is an important resource management issue. To date, the draft NPS-HPL has not been further advanced.²⁵

Canterbury Regional Policy Statement

56. The Canterbury Regional Policy Statement (**CRPS**) contains provisions relevant to the development of District Plans. The CRPS became operative on 15 January 2013. This is after the date the Operative Plan became operative.
57. I have considered whether there are also provisions of relevance in Chapter 6: Recovery and Rebuilding of Greater Christchurch of the CRPS. Chapter 6 provisions only apply to that part of the region identified as Greater Christchurch. Part of the Greater Christchurch area is within the Operative and Proposed Rural Zone²⁶. Having considered the provisions in Chapter 6 I have not identified any of particular relevance. I have reproduced these provisions in **Exhibit H** for completeness but provide no further evaluation of them.
58. The key chapter of the CRPS of relevance to this application is Chapter 5: Land Use and Transport Integration. This chapter applies to the entire Canterbury region. It applies to the entire Operative Rural Zone and the

²⁴ Valuing high productive land: A summary of the proposed national policy statement for highly productive land, Ministry for Primary Industries and Ministry for the Environment 2019.

²⁵ I understand this has not progressed beyond submissions being received, a summary of which was published 30 July 2020. I further understand this NPS has been identified as being held up due to need to focus on Covid recovery and that progress is expected in the second half of 2021.

²⁶ Only a small part of the Greater Christchurch area is within the Proposed Rural Zone. The majority of it is within the Proposed Rural Lifestyle Zone.

entire Proposed Rural Zone and Proposed Rural Lifestyle Zone. The relevant provisions of the CRPS are contained in **Exhibit H** of my Affidavit.

59. Objective 5.2.1(e) of the CRPS seeks to enable rural activities that support the rural environment, including primary production. Policy 5.3.2 of the CRPS enables development. It seeks to ensure that adverse effects are avoided, remedied or mitigated, including where these would compromise or foreclose:

c. the productivity of the region's soil resources, without regard to the need to make appropriate use of soil which is valued for existing or foreseeable future primary production, or through further fragmentation of rural land....

60. Policy 5.3.12 of the CRPS addresses rural production and is of particular relevance. It states:

1. **avoiding development, and/or fragmentation which**
 - a. **Forecloses the ability to make appropriate use of that land for primary production and/or**
 - b. **results in reverse sensitivity effects that limit or precludes primary production.**

61. Having read the evidence of Mr Gordon, it seems to me that allowing for continued subdivision at 4ha may be at odds with the CRPS's policy directions on the issue. I accept this is something that will be considered and possibly debated during the hearings for the Proposed Plan. I am conscious, however, that 4ha fragmentation can be irreversible.

Part 2 of the RMA

62. While there are matters in sections 6 and 8 of the RMA relevant to rural zones, it is my opinion that the most relevant matters to the Council's Application are those in section 7, being:

- (a) Kaitiakitanga;
- (aa) the ethic of stewardship;
- (b) the efficient use and development of natural and physical resources;
- (c) the maintenance and enhancement of amenity values;
- (f) maintenance and enhancement of the quality of the environment;
- (g) any finite characteristics of natural and physical resources.

63. These matters are all fundamental considerations and, in my opinion, they relate strongly to the outcomes sought for the Proposed Rural Zone.
64. Kaitiakitanga and the ethic of stewardship are fundamental to the way rural land and rural resources are considered and valued. The efficient use and development of natural and physical resources and any finite characteristics of natural and physical resources are important building blocks for establishing provisions within the Proposed Rural Zone.
65. The finite characteristics of rural land and its ability to be used for rural production is central to the change from the status quo Operative Plan. The rural areas are the only location in the District available for rural production activities to occur. Therefore, maintaining its potential to be available for rural production is consistent with Part 2 of the RMA. The maintenance and enhancement of amenity values and maintenance and enhancement of the quality of the environment are directly related to the matter of rural character.
66. In my assessment, the rules for which immediate legal effect is sought address matters of direct relevance in Part 2 of the RMA.

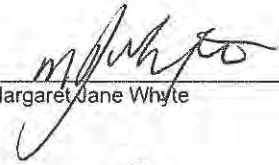
Conclusion

67. The Proposed Plan changes the minimum residential density and minimum lot size requirements in the Proposed Rural Zone to:
 - (a) One residential unit and one minor residential on 20ha, unless addressed in a legacy clause; and
 - (b) A minimum lot size for subdivision of 20ha, unless associated with infrastructure.
68. If the rules cannot be achieved, the activity will require resource consent as a non-complying activity.
69. The consequence of the change in residential density and minimum lot size for subdivision is:
 - (a) The potential number of residential units that can be established in the Proposed Rural Zone is reduced compared to the Operative Plan for any property over 8ha in area.

- (b) The potential number of new lots that can be created by subdivision is reduced compared to the Operative Plan for any property over 8ha in area.
- (c) The proposed changes will reduce development opportunities and development flexibility for landowners in the Proposed Rural Zone in relation to the establishment of residential units, minor residential units and subdivision compared to the status quo.

AFFIRMED at Christchurch this)
13th day of July 2021)

before me:)


Margaret Jane Whyte

William Andrew Leathart Todd
Solicitor
Christchurch


A Solicitor of the High Court of New Zealand

Exhibit A

Immediate Legal Effect Provisions

GRUZ-R41 Residential Unit

Activity status: NC

Where:

1. a residential unit is located on a site with a minimum net site area of less than 20ha; or
2. the site of the residential unit is an allotment that existed prior to [*notification date of this District Plan*] with a minimum net site area of 4ha or more but less than 20 ha and has more than one residential unit; or
3. the site is subject to a subdivision consent that was granted prior to [*notification date of this District Plan*], with a minimum net site area of 4ha or more but less than 20 ha and has not been issued with certification under Section 224 of the RMA, and has more than one residential unit; or
4. the site has a minimum net site area less than 4ha and it is a site or an allotment that was created by subdivision and was on a subdivision consent between 1 October 1991 and 24 February 2001 (inclusive of both dates) and has more than one residential unit; or
5. where more than one residential unit is located on a site it is contained within its own delineated area and the delineated area has a minimum net site area less than 20ha.

GRUZ-R42 Minor Residential Unit

Activity status: NC


Where:

1. a minor residential unit is located on a site with a minimum net site area of less than 20ha; or
2. the site of the minor residential unit is an allotment that existed prior to [*notification date of this District Plan*] with a minimum net site area of 4ha or more but less than 20 ha and has more than one minor residential unit; or
3. the site is subject to a subdivision consent that was granted prior to [*notification date of this District Plan*], with a minimum net site area of 4ha or more but less than 20 ha and has not been issued with certification under Section 224 of the RMA, and has more than one minor residential unit; or
4. the site has a minimum net site area less than 4ha and it is a site or an allotment that was created by subdivision and was on a subdivision consent between 1 October 1991 and 24 February 2001 (inclusive of both dates) and has more than one minor residential unit; or
5. where more than one minor residential unit is located on a site it is contained within its own delineated area and the delineated area has a minimum net site area less than 20ha.

EXHIBIT NOTE

This is the annexure marked "A" referred to in the affidavit of MARGARET JANE WHYTE and affirmed at Christchurch this 13th day of July 2021 before me

William Andrew Leathart Todd
Solicitor
Christchurch

Signature.....
A Solicitor of the High Court of New Zealand
(Solicitor to sign in part on Exhibit)

Definitions

minor residential unit¹ - means a self-contained residential unit that is ancillary to the principal residential unit, and is held in common ownership with the principal residential unit on the same site.

residential unit² - means a building(s) or part of a building that is used for a residential activity exclusively by one household, and must include sleeping, cooking, bathing and toilet facilities.

SUB-R14 Subdivision in General Rural Zone

Activity status: NC

Where:

1. Subdivision creates an allotment with a minimum allotment area less than 20ha, except where a subdivision takes place to accommodate infrastructure³.

¹ National Planning Standards November 2019 – 14 Definitions Standard – (page 60)

² National Planning Standards November 2019 – 14 Definitions Standard – (page 62)

³ Infrastructure is as defined in Section 2 of the Resource Management Act.

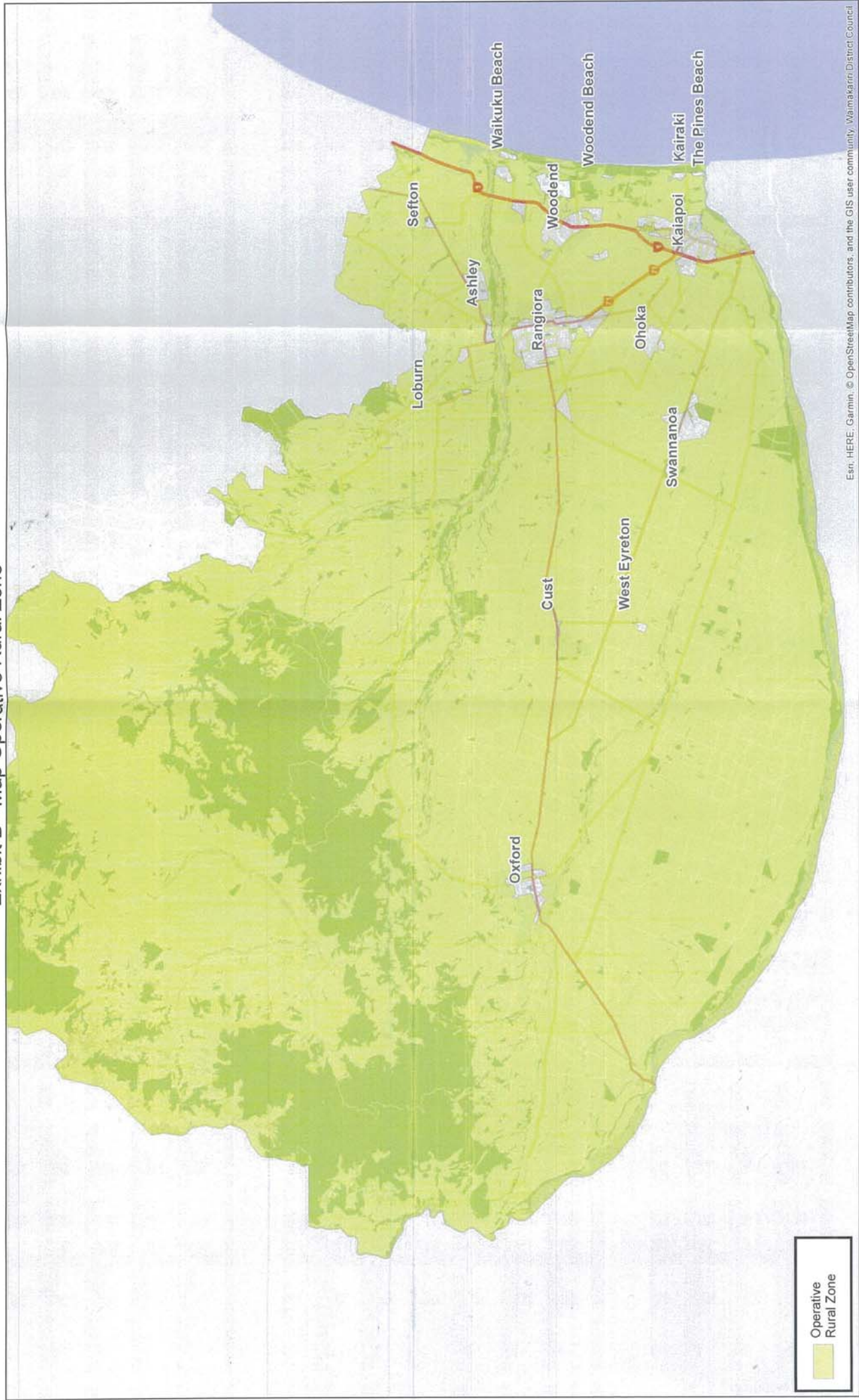
EXHIBIT NOTE

This is the annexure marked "B" referred to in the affidavit of **MARGARET JANE WHYTE** and affirmed at Christchurch this 17th day of July 2021 before me

William Andrew Leathart Todd
Solicitor
Christchurch

Signature.....
A Solicitor of the High Court of New Zealand
(Solicitor to sign in part on Exhibit)

Exhibit B - Map Operative Rural Zone



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21-007

Operative Rural Zone

Date: 10/06/2021

Scale 1:200,000
Original Size - A3



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EXHIBIT NOTE

This is the annexure marked "C" referred to in the affidavit of MARGARET JANE WHYTE and affirmed at Christchurch this 13th day of July 2021 before me

William Andrew Leathart Todd
Solicitor
Christchurch


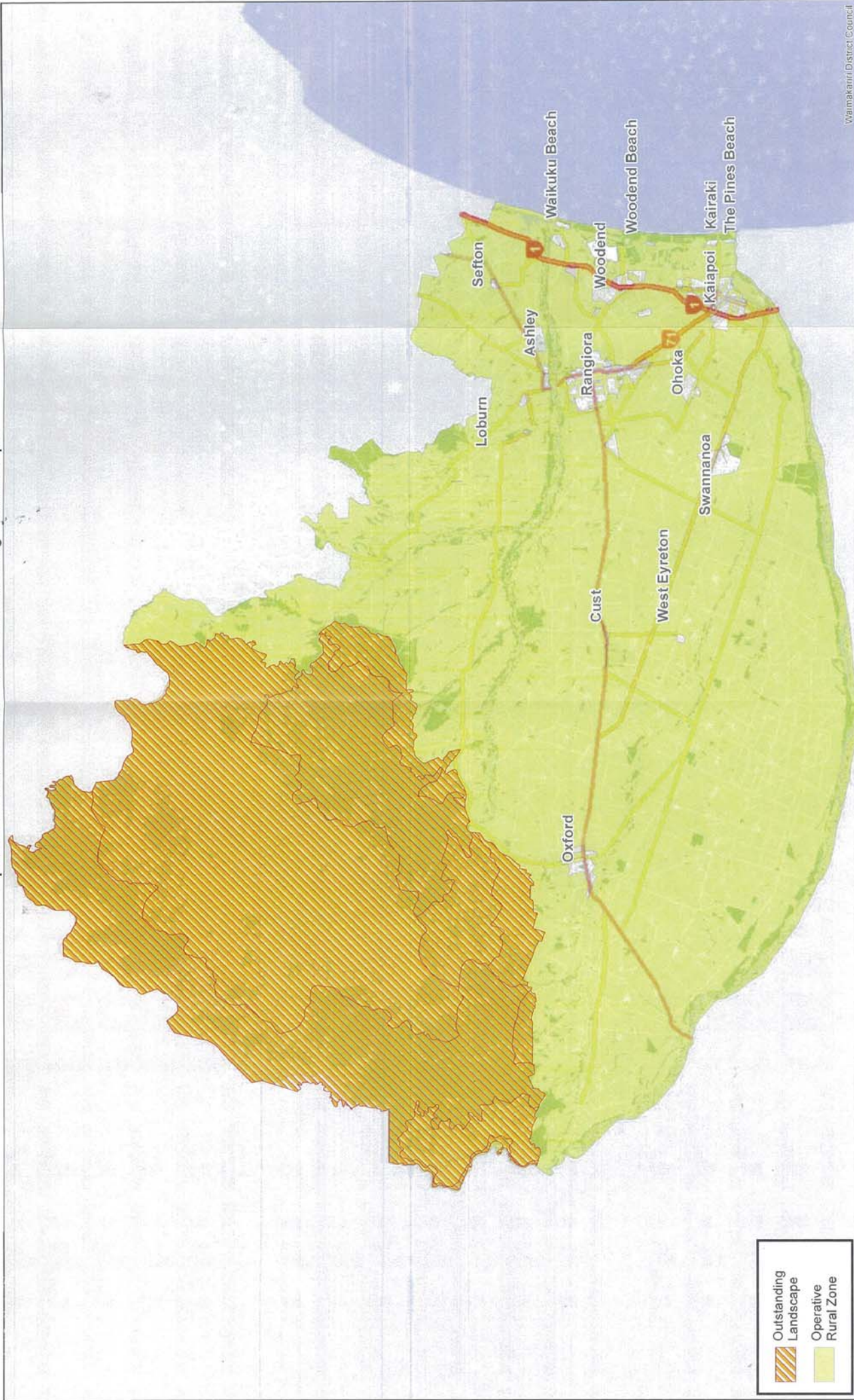
Signature.....
A Solicitor of the High Court of New Zealand
(Solicitor to sign in part on Exhibit)

Exhibit C - Operative Rural Zone with Outstanding Landscape



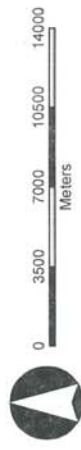
Waimakariri District Council

Operative Rural Zone with Outstanding Landscape

Date: 25/06/2021

Scale 1:228,570

Original Size - A3



21-007



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Exhibit D – Relevant Operative Plan Provisions

The key Operative rules⁴ relevant to Council's Application are those that relate to residential density and minimum lot size being:

- (a) **Rule 31.1.1.1** which provides that any residential unit be on a site with a minimum area of 4ha to be a permitted activity.⁵
- (b) **Rule 31.1.1.3** which provides that where there is more than one residential unit on a site that each residential unit be located on its own delineated area, that has a minimum of 4ha, to be a permitted activity.
- (c) Definition of "**dwellinghouse**" that provides that a residential unit is comprised of not only a residential unit but also a minor residential unit.
- (d) **Rules 32.1, 32.1.1 and 32.1.1.1** which specify that to be a controlled activity subdivision⁶ a minimum lot size of 4ha is required.
- (e) **Rule 21.8.2** which identifies that a residential unit and/or subdivision of land, that does not meet the existing or required density of the zone is a non-complying activity.
- (f) **Rule 24.4.1** that provides that subdivision in an Outstanding Landscape Area is a discretionary activity.⁷
- (g) **Rules 24.4.3 and 24.4.4** that in combination mean a residential unit in an Outstanding Landscape Area is a discretionary activity.

EXHIBIT NOTE

This is the annexure marked "D" referred to in the affidavit of **MARGARET JANE WHYTE** and affirmed at Christchurch this 17th day of July 2021 before me

William Andrew Leathart Todd
Solicitor
Christchurch

Signature.....
A Solicitor of the High Court of New Zealand
(Solicitor to sign in part on Exhibit)

⁴ There are a number of rules and standards within rules that are required to be met for an activity to be a permitted activity. These include matters such as yard setback, height, access. These rules have been considered. However, they are not determinative to the matters addressed in this evidence and have not been addressed in detail.

⁵ A permitted activity does not require resource consent.

⁶ A controlled activity is the most permissive activity status for subdivision in the Operative Plan. It means consent cannot be refused.

⁷ Consent is required for a discretionary activity. Consent may either be granted or refused.

EXHIBIT NOTE

This is the annexure marked "E" referred to in the affidavit of **MARGARET JANE WHYTE** and affirmed at Christchurch this 13 day of July 2021 before me

William Andrew Leathart Todd
Solicitor
Christchurch


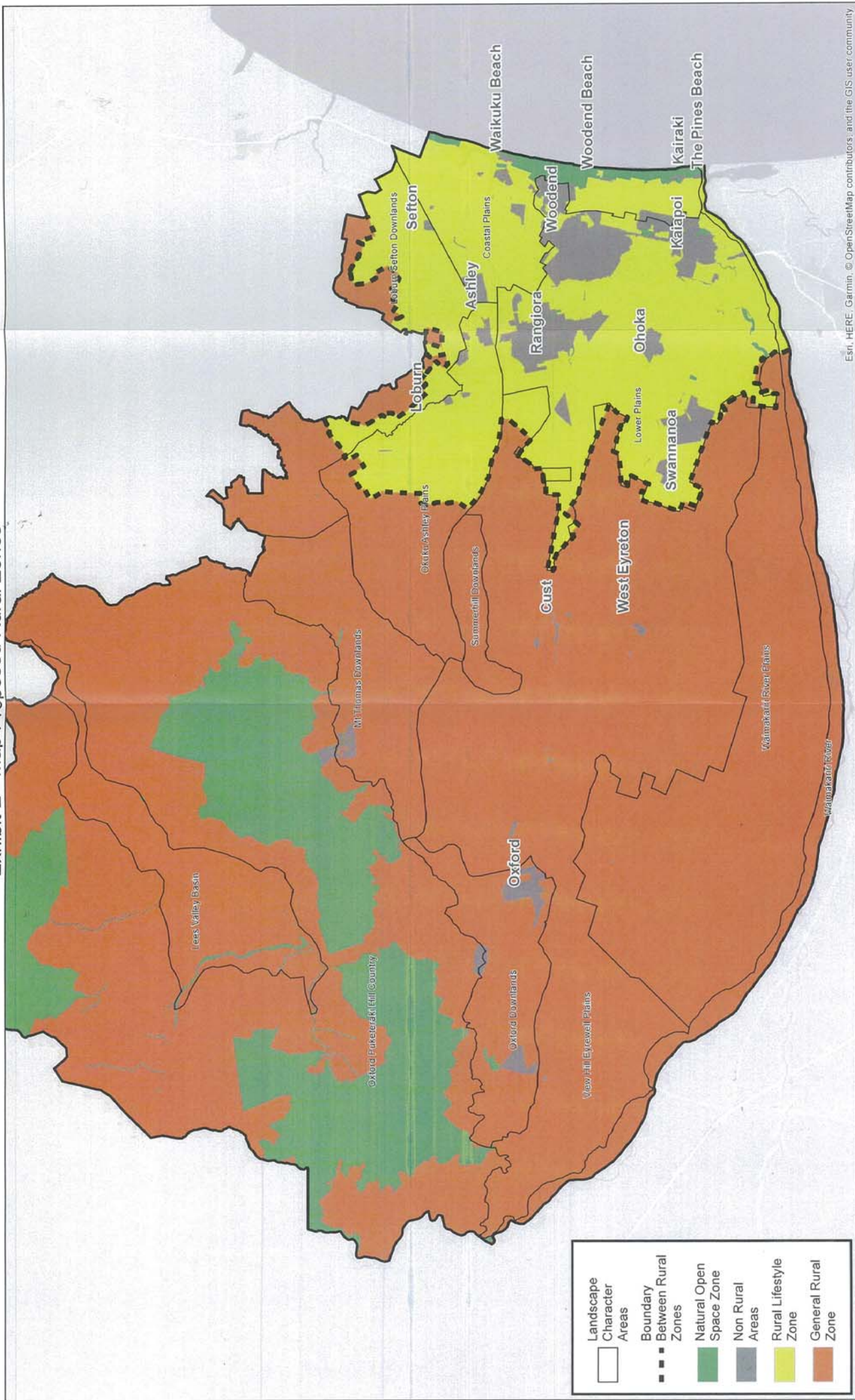
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A Solicitor of the High Court of New Zealand
(Solicitor to sign in part on Exhibit)

Exhibit E - Map Proposed Rural Zones



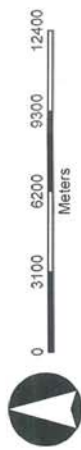
Landscape Character Areas

- Boundary
- Between Rural Zones
- Natural Open Space Zone
- Non Rural Areas
- Rural Lifestyle Zone
- General Rural Zone

Proposed Rural Zones

Date: 9/06/2021

Scale 1:200,000
Original Size - A3



21-007



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Exhibit F – Relevant Proposed Plan Provisions⁸

Rural Objectives and Policies

Objective RURZ-01 Rural Environment

An environment with a predominant land use character comprising primary production activities and natural environment values, where rural openness dominates over built form, while recognising

1. the east of the District has a predominant character of small rural sites with a pattern of built form of residential units and structures at more regular intervals, but still at a low level of density compared to urban environments; and
2. the remainder of the district while having a range in the size of rural sites, has a predominant character of larger rural sites with less density of residential units and built form.

Objective RURZ-02 Activities in Rural Zones

Rural Zones support primary production activities, activities which directly support primary production, and activities with a functional need to be located within Rural Zones.

Policy RURZ-P1 Amenity values and character

Recognise the contribution of amenity values to maintaining the character of the zones, and maintain the local rural amenity values in Rural Zones by:

1. requiring separation between buildings on adjoining properties to maintain privacy and a sense of openness;

EXHIBIT NOTE

This is the annexure marked "F" referred to in the affidavit of **MARGARET JANE WHYTE** and affirmed at Christchurch this 13th day of July 2021 before me

William Andrew Leathart Todd
Solicitor
Christchurch

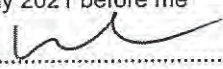
Signature.....
A Solicitor of the High Court of New Zealand
(Solicitor to sign in part on Exhibit)

Exhibit F – Relevant Proposed Plan Provisions⁸

Rural Objectives and Policies

Objective RURZ-01 Rural Environment

An environment with a predominant land use character comprising primary production activities and natural environment values, where rural openness dominates over built form, while recognising

1. the east of the District has a predominant character of small rural sites with a pattern of built form of residential units and structures at more regular intervals, but still at a low level of density compared to urban environments; and
2. the remainder of the district while having a range in the size of rural sites, has a predominant character of larger rural sites with less density of residential units and built form.

Objective RURZ–02 Activities in Rural Zones

Rural Zones support primary production activities, activities which directly support primary production, and activities with a functional need to be located within Rural Zones.

Policy RURZ-P1 Amenity values and character

Recognise the contribution of amenity values to maintaining the character of the zones, and maintain the local rural amenity values in Rural Zones by:

1. requiring separation between buildings on adjoining properties to maintain privacy and a sense of openness;
2. retaining generally low levels of signs, noise, traffic, odour, outdoor lighting, and built form while recognising that in association with primary production and rural industry, which are part of the character of each rural zone that:
 - (a) there may be seasonal, short term or intermittent odour, noise, dust, traffic and outdoor lighting effects; and
 - (b) large buildings may be needed.
3. restricting the density of residential units and minor residential units that can be established on a site consistent with the character of each rural zone, unless a development right has been protected through a legacy provision or is associated with the protection in perpetuity of SNAs.

Policy RURZ-P2

Maintain the availability and life supporting capacity of land in recognition of its importance for undertaking primary production, and to maintain or enhance natural environment values in rural zones, including by:

1. providing for primary production activities;

⁸ The Proposed Plan provisions are draft provisions, which are subject to consideration and approval by Waimakariri District Council. The provisions are also subject to minor changes to wording and numbering resulting from final editing of the provisions. The provisions are the version as of 1 July 2021.

2. providing for those activities that directly support primary production, or those activities with a functional need to be located within rural zones, where:
 - (a) adverse effects on soil and highly productive land are minimised;
 - (b) the amenity values and character of rural zones are maintained; and
 - (c) to the extent practicable, adverse effects are internalised within the site where an activity is being undertaken.
3. ensuring subdivision and subsequent development is managed so that it does not foreclose the ability for rural land to be utilised for primary production activities including not diminishing the potential for rural land to meet the reasonably foreseeable needs of future generations.

Policy RURZ-P5 Minor residential units

Provide for a minor residential unit on a site, which includes a tiny home, while ensuring that any minor residential unit is subservient to any residential unit on the site.

General Rural Zone Objectives and Policies

Objective GRUZ-01 Purpose of the General Rural Zone

Natural and physical resources and primary production activities which contribute to the District's rural productive economy dominate while fragmentation of land into small rural parcels is restricted.

Policy GRUZ-P1 Character of the General Rural Zone

Maintain the character in the General Rural Zone which comprises:

1. primary production being the predominant land use;
2. a dominance of open space and vegetation, including paddocks, trees, agriculture and natural elements over buildings;
3. a landscape strongly influenced by patterns and processes of human activity associated with primary production, with a focus of open farmland areas and larger scale primary production activities, along with areas with natural environment values and site and areas of significance to Māori;
4. separation between residential units and farm buildings on adjoining properties, with an overall low density of dwellings and buildings; and
5. contrasts with urban areas through having a general absence of the type and scale of infrastructure and built form found in urban areas.

Policy GRUZ-P2 Limiting fragmentation of land

Maintain opportunities for land to be used for primary production activities within the zone by limiting further fragmentation of land in a manner that that avoids sites being created, or residential units being erected, on sites that are less than 20ha, unless:

1. associated with the development of infrastructure which reduces the size of the balance lot or sites to below 20ha;

2. associated with the establishment of a Bonus Residential Unit or creation of a Bonus allotment;
3. the erection of a residential unit is protected by a legacy provision in this Plan; and
4. it is for the establishment of a minor residential unit, where the site containing a residential unit is 20ha or greater, or is protected by a legacy provision in this Plan.

General Rural Zone – Rules

Rule GRUZ-R3 Residential unit

This rule does not apply to a minor residential unit or a Bonus Residential unit.

Activity status: PER

Where:

1. a residential unit shall be located on a site with a minimum net site area of 20ha per residential unit, except where provided for in (3), (4), (5), (6) and (7) below;
2. there is more than one residential unit on a site each residential unit shall be contained within its own delineated area and each delineated area shall be treated as though it is a site, which shall:
 - (a) have a minimum net site area of 20ha per delineated area, and
 - (b) have no overlap between delineated areas, and
 - (c) have legal and physical access from any residential unit to a legal road; and
 - (d) comply with built form standards as though each delineated area was a site;
3. a site with a minimum net site area of 4ha or more, but less than 20 ha, which does not have a residential unit erected on it, existed prior to [*notification date of this District Plan*], one residential unit may be erected;
4. a site with a minimum net site area of 4ha or more but less than 20ha, which does not have a residential unit erected on it, is subject to a subdivision consent that was granted prior to [*notification date of this District Plan*], but has not been issued with certification under Section 224 of the RMA, one residential unit may be erected;
5. a site with a minimum net site area less than 4ha exists and it is a site or an allotment that was created by subdivision and was on a subdivision consent between 1 October 1991 and 24 February 2001 (inclusive of both dates) one residential unit may be erected;
6. a site with a minimum net site area of less than 20ha exists and is a site or an allotment that was associated with the development of infrastructure, which prior to the development of the infrastructure was 20ha or more, one residential unit may be erected; and
7. one residential unit may be established on a Bonus Allotment.

Activity status when compliance not achieved with GRUZ-R3 (2)(b) or GRUZ-R3 (2)(c): DIS

Activity status when compliance not achieved with GRUZ-R3 (1), GRUZ-R3(2)(a), GRUZ-R3(3), GRUZ-R3(4), GRUZ-R2(5) GRUZ-R3(6) or GRUZ-R3(7): NC

Rule GRUZ-R4 Residential activity

Activity status: PER

Where:

1. any motor vehicles and/or boats dismantled, repaired or stored on the site of the residential activity shall be owned by the people who live on the same site.

Activity status when compliance not achieved: N/A

Rule GRUZ-R5 Minor residential unit

Activity status: PER

Where:

1. the maximum GFA of the minor residential unit shall be 90m² (excluding any area required for a car vehicle garage or carport up to a maximum of 40m²);
2. there shall be only one minor residential unit per site; or
3. there shall be only one minor residential unit per delineated area within a site; or
4. for any site where there is a residential unit and a Bonus Residential Unit there shall be a maximum of two minor residential units per site; and
5. a minor residential unit shall only be erected on a site less than 4ha where the site exists and is a site or allotment that was created by subdivision and was on a subdivision consent between 1 October 1991 and 24 February 2001 (inclusive of both dates).
6. Activity status when compliance not achieved: NC

Rule GRUZ-R40 Residential unit

Activity status: NC

Where:

1. a residential unit is located on a site with a minimum net site area of less than 20ha; or
2. the site of the residential unit is an allotment that existed prior to [*notification date of this District Plan*] with a minimum net site area of 4ha or more but less than 20 ha and has more than one residential unit; or
3. the site is subject to a subdivision consent that was granted prior to [*notification date of this District Plan*], with a minimum net site area of 4ha or more but less than 20 ha and has not been issued with certification under Section 224 of the Resource Management Act, and has more than one residential unit; or
4. the site has a minimum net site area less than 4ha and it is a site or an allotment that was created by subdivision and was on a subdivision consent between 1 October 1991 and 24 February 2001 (inclusive of both dates) and has more than one residential unit; or

5. where more than one residential unit is located on a site it is contained within its own delineated area and the delineated area has a minimum net site area less than 20ha.

Rule GRUZ-R41 Minor Residential Unit

Activity status: NC

Where:

1. a minor residential unit is located on a site with a minimum net site area of less than 20ha; or
2. the site of the minor residential unit is an allotment that existed prior to [*notification date of this District Plan*] with a minimum net site area of 4ha or more but less than 20 ha and has more than one minor residential unit; or
3. the site is subject to a subdivision consent that was granted prior to [*notification date of this District Plan*], with a minimum net site area of 4ha or more but less than 20 ha and has not been issued with certification under Section 224 of the Resource Management Act, and has more than one minor residential unit; or
4. the site has a minimum net site area less than 4ha and it is a site or an allotment that was created by subdivision and was on a subdivision consent between 1 October 1991 and 24 February 2001 (inclusive of both dates) and has more than one minor residential unit; or
5. where more than one minor residential unit is located on a site it is contained within its own delineated area and the delineated area has a minimum net site area less than 20ha.

Definitions

minor residential unit⁹ - means a self-contained residential unit that is ancillary to the principal residential unit, and is held in common ownership with the principal residential unit on the same site.

residential unit¹⁰ - means a building(s) or part of a building that is used for a residential activity exclusively by one household, and must include sleeping, cooking, bathing and toilet facilities.

Subdivision objectives and policies

Objective SUB-01 Subdivision design

An integrated pattern of development, and urban form, through subdivision that:

1. provides for anticipated land use and density that achieve the identified future character, form or function of the zone;
2. consolidates urban development and maintains rural character except where required and identified by the District Council for urban use;
3. improves connectivity and accessibility between home and employment, public transport, commercial centres, services and open space;
4. provides for sustainable infrastructure and development; and

⁹ National Planning Standards November 2019 – 14 Definitions Standard – (page 60)

¹⁰ National Planning Standards November 2019 – 14 Definitions Standard – (page 62)

5. ensures communities are resilient to climate change and natural hazards.

Policy SUB-P2 Lot layout, size and dimension

Ensure that lot layouts, sizes and dimensions:

1. support existing and anticipated land uses;
2. in residential zones, provide a variety of lot sizes to cater for different housing types, densities and affordability that are consistent with the anticipated character of the zones;
3. in rural zones, maintain lot sizes that retains rural character and enables primary production; and
4. for super lot development in residential zones, sufficient size and shape is provided to enable high quality urban design for multi-unit residential development.

Policy SUB-P5 Density

In relation to density ensure:

5. the anticipated identified character, function or role of the relevant zone is maintained through the use of minimum allotment sizes;
6. minor residential units are not subdivided off from the principal residential unit, unless the resulting sites meet the minimum allotment size for the zone; and
7. residential subdivision in development areas (excluding the Large Lot Residential Zone) achieves a minimum net density of 12 households per ha, when averaged across the whole of the residential development area within the relevant ODP, except in areas shown on an ODP as being subject to development constraints, including the use of legal instruments to achieve such outcomes.

Rules - Subdivision Standards

Rule Sub-S1 Lot size and dimensions

In relation to allotment size:

1. All allotments created shall comply with Table SUB-1 (refer to exemptions contained in {Link,7099,SUB-EX1 to SUB-EX8});
2. For the purpose of Rule {Link,24074,SUB-S1}, minimum areas and dimensions of commercial and mixed use zones, industrial zones and residential zones allotments in Table SUB-1 shall be exclusive of any accessway and areas subject to a designation; and
3. For the purpose of unit title or cross-lease allotments, the minimum allotment area shall be calculated per allotment over the area of the parent site.

Activity status when compliance not achieved:

1. In the Medium Density Residential Zone and Special Purpose Zone (Kaiapoi Regeneration): DIS

2. In any Industrial Zone: DIS
3. In any other zones: NC

Table SUB-1: Minimum allotment sizes and dimensions

Note: For the purposes of unit title or cross-lease allotments, the allotment area shall be calculated per allotment over the area of the parent site

Zones	Minimum allotment area	Internal square	Frontage (excluding rear lots)
Rural Zones			
General Rural Zone	20ha	n/a	n/a

Rule SUB-R14 Subdivision in General Rural Zone

Activity status: NC

Where:

1. Subdivision creates an allotment with a minimum allotment area less than 20ha, except where a subdivision takes place to accommodate infrastructure¹¹.

¹¹ Infrastructure is as defined in Section 2 of the Resource Management Act.

Exhibit G

Regulation Comparison Tables

LAND USE ACTIVITY	ACTIVITY STATUS - OPERATIVE RURAL ZONE	ACTIVITY STATUS - PROPOSED RURAL ZONE
Establish a Residential Unit on less than 4ha	Non-complying unless: 1. An existing lot created on a subdivision consent between 1 October 1991 and 24 February 2001 (inclusive of both dates)	Non-complying unless: 1. An existing lot created on a subdivision consent between 1 October 1991 and 24 February 2001 (inclusive of both dates)
Establish a Minor Residential Unit on less than 4ha	Non-complying unless: 1. An existing lot created on a subdivision consent between 1 October 1991 and 24 February 2001 (inclusive of both dates)	Non-complying unless: 1. An existing lot created on a subdivision consent between 1 October 1991 and 24 February 2001 (inclusive of both dates)
Establish a Residential Unit on a lot that is more than 4ha but less than 20ha	Permitted at a density of 1 residential unit per 4ha	Non-complying unless: 1. The lot was existing prior to the notification of the

EXHIBIT NOTE

This is the annexure marked "G" referred to in the affidavit of MARGARET JANE WHYTE and affirmed at Christchurch this 13 day of July 2021 before me

William Andrew Leathart Todd
Solicitor
Christchurch


Signature.....
A Solicitor of the High Court of New Zealand
(Solicitor to sign in part on Exhibit)

Exhibit G

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LAND USE ACTIVITY	ACTIVITY STATUS - OPERATIVE RURAL ZONE	ACTIVITY STATUS - PROPOSED RURAL ZONE
Establish a Residential Unit on less than 4ha	Non-complying unless: 1. An existing lot created on a subdivision consent between 1 October 1991 and 24 February 2001 (inclusive of both dates)	Non-complying unless: 1. An existing lot created on a subdivision consent between 1 October 1991 and 24 February 2001 (inclusive of both dates)
Establish a Minor Residential Unit on less than 4ha	Non-complying unless: 1. An existing lot created on a subdivision consent between 1 October 1991 and 24 February 2001 (inclusive of both dates)	Non-complying unless: 1. An existing lot created on a subdivision consent between 1 October 1991 and 24 February 2001 (inclusive of both dates)
Establish a Residential Unit on a lot that is more than 4ha but less than 20ha	Permitted at a density of 1 residential unit per 4ha	Non-complying unless: 1. The lot was existing prior to the notification of the Proposed plan and has no existing residential unit 2. The lot was created on a subdivision approved prior to the notification of the Proposed Plan and has no existing residential unit
Establish a Minor Residential Unit on a lot that is more than 4ha but less than 20ha	Permitted at a density of 1 residential unit per 4ha	Non-complying unless: 1. The lot was existing prior to the notification of the Proposed plan and has no existing residential unit 2. The lot was created on a subdivision approved prior to the notification of the Proposed Plan and

		has no existing residential unit
Establish a Residential Unit on a lot that is more than 20ha	Permitted at a density of 1 residential unit per 4ha	Permitted at a density of 1 residential unit per 20ha
Establish a Minor Residential Unit on a lot that is more than 20ha	Permitted at a density of 1 residential unit per 4ha	Permitted at a density of 1 residential unit per 20ha

SUBDIVISION	ACTIVITY STATUS - OPERATIVE RURAL ZONE	ACTIVITY STATUS - PROPOSED RURAL ZONE
Subdivide a lot with a minimum lot size less than 4ha	Non-complying	Non-complying
Subdivide a lot with a minimum lot size more than 4ha but less than 20ha	Controlled with a minimum lot size of 4ha	Non-complying
Subdivide a lot with a minimum lot size more than 20ha	Controlled with a minimum lot size of 4ha	Controlled with a minimum lot size of 20ha or more
Subdivide a lot in an Outstanding Natural Landscape with a minimum lot size more than 20ha	Discretionary	Discretionary ¹²
Subdivide a lot in an Outstanding Natural Landscape with a minimum lot size less than 20ha	Discretionary	Non-complying

¹² Aside from Rules GRUZ-R41, GRUZ-R42 and SUB-R14, the Proposed Plan provisions referred to are draft provisions, which are subject to consideration and approval by Waimakariri District Council.

Exhibit H – Canterbury Regional Policy Statement Relevant Provisions

Chapter 5

Introduction

Within this chapter, the issues, objectives and policies that relate to the Canterbury region inclusive of Greater Christchurch will be notated as 'Entire Region' those provisions which are not relevant to Greater Christchurch will be notated as 'Wider Region'.

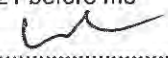
Accordingly, the achievement and implementation of the objectives, policies or methods in Chapter 6 – Recovery and Rebuilding of Greater Christchurch, take precedence within Greater Christchurch.

The focus of this chapter is on:

1. development which results in changes to urban, rural-residential and rural areas, together with the infrastructural services which support this development.
2. the strategic integration of land-use and regionally significant infrastructure in the wider region.
3. recognition of the importance of regionally significant infrastructure to a community's economic wellbeing, social wellbeing, health and safety and the need to provide for its establishment, retention and enhancement, as appropriate

EXHIBIT NOTE

This is the annexure marked "H" referred to in the affidavit of **MARGARET JANE WHYTE** and affirmed at Christchurch this 13 day of July 2021 before me

Signature.....
A Solicitor of the High Court of New Zealand
(Solicitor to sign in part on Exhibit)

William Andrew Leathart Todd
Solicitor
Christchurch

Exhibit H – Canterbury Regional Policy Statement Relevant Provisions

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The focus of this chapter is on:

1. development which results in changes to urban, rural-residential and rural areas, together with the infrastructural services which support this development.
2. the strategic integration of land-use and regionally significant infrastructure in the wider region.
3. recognition of the importance of regionally significant infrastructure to a community's economic wellbeing, social wellbeing, health and safety and the need to provide for its establishment, retention and enhancement, as appropriate

Objectives, policies and methods

Objective 5.2.1 Location, Design and Function of Development (Entire Region)

Development is located and designed so that it functions in a way that:

1. achieves consolidated, well designed and sustainable growth in and around existing urban areas as the primary focus for accommodating the region's growth and
2. enables people and communities, including future generations, to provide for their social, economic and cultural well-being and health and safety and which
 - (a) maintains, and where appropriate, enhances the overall quality of the natural environment of the Canterbury region, including its coastal environment, outstanding natural features and landscapes, and natural values
 - (b) provides sufficient housing choice to meet the region's housing needs
 - (c) encourages sustainable economic development by enabling business activities in appropriate locations
 - (d) minimises energy use and/or improves energy efficiency

- (e) enables rural activities that support the rural environment including primary production
- (f) is compatible with, and will result in the continued safe, efficient and effective use of regionally significant infrastructure
- (g) avoids adverse effects on significant natural and physical resources including regionally significant infrastructure, and where avoidance is impracticable, remedies or mitigates those effects on those resources and infrastructure
- (h) facilitates the establishment of papakāinga and marae; and
- (i) avoids conflicts between incompatible activities.

Objective 5.3.2 Development conditions (Wider Region)

To enable development including regionally significant infrastructure which:

1. ensure that adverse effects are avoided, remedied or mitigated, including where these would compromise or foreclose:
 - (a) existing or consented regionally significant infrastructure
 - (b) options for accommodating the consolidated growth and development of existing urban areas
 - (c) the productivity of the region's soil resources, without regard to the need to make appropriate use of soil which is valued for existing or foreseeable future primary production, or through further fragmentation of rural land
 - (d) the protection of sources of water for community supplies
 - (e) significant natural and physical resources
2. avoid or mitigate:
 - (a) natural and other hazards, or land uses that would likely result in increases in the frequency and/or severity of hazards
 - (b) reverse sensitivity effects and conflicts between incompatible activities, including identified mineral extraction areas

and
3. integrate with:
 - (a) the efficient and effective provision, maintenance or upgrade of infrastructure and
 - (b) transport networks, connections and modes so as to provide for the sustainable and efficient movement of people, goods and services, and a logical, permeable and safe transport system.

The Canterbury Regional Council:

Will:

1. Through the Canterbury Regional Land Transport Strategy, implement policies to integrate the development and use of the land transport network infrastructure with land-use.
2. Set out objectives, policies and may include methods in regional plans to control the adverse effects of development on water bodies, including their value as sources of drinking water.

Territorial authorities:

Will:

3. Set out objectives and policies, and may include methods in district plans, particular to each district:
 - (a) that establish a comprehensive approach to the management of the location of urban and rural-residential development within the territorial authority area, including provisions requiring consideration as to how new land use will be appropriately serviced by transport and other infrastructure and
 - (b) to avoid subdivision, use and development that does not meet the criteria set out in Policy 11.3.1 clauses (1) to (5) for known high hazard areas.

Local authorities:

Will:

4. Engage with Ngāi Tahu as Tāngata whenua, including by recognising iwi management plans, when determining Ngāi Tahu values.
5. Work together where appropriate, with adjoining local authorities and, with providers of regionally significant infrastructure when identifying patterns and locations of development.
6. Set out objectives and policies, and may include methods in regional and district plans:
 - (a) that identifies regionally significant infrastructure, and recognises its economic and social benefits
 - (b) that manage the adverse effects of, and from, the installation, operation, maintenance and/or development of regionally significant infrastructure.

Objective 5.3.12 Rural production (Wider Region)

Maintain and enhance natural and physical resources contributing to Canterbury's overall rural productive economy in areas which are valued for existing or foreseeable future primary production, by:

1. avoiding development, and/or fragmentation which
 - (a) forecloses the ability to make appropriate use of that land for primary production and/or

- (b) results in reverse sensitivity effects that limit or precludes primary production.
2. enabling tourism, employment and recreational development in rural areas, provided that it:
 - (a) is consistent and compatible with rural character, activities, and an open rural environment
 - (b) has a direct relationship with or is dependent upon rural activities, rural resources or raw material inputs sourced from within the rural area
 - (c) is not likely to result in proliferation of employment (including that associated with industrial activities) that is not linked to activities or raw material inputs sourced from within the rural areas and
 - (d) is of a scale that would not compromise the primary focus for accommodating growth in consolidate, well designed and more sustainable development patterns.

and
 3. ensuring that rural land use intensification does not contributed to significant cumulative adverse effects on water quality and quantity.

Objective 5.4 Anticipated environmental results

1. New urban and rural residential development is consolidated in, around and integrated with existing urban areas.
2. All rural-residential development is located in areas zoned for rural residential development.
3. New urban and rural residential development maintains and improves the functioning and qualities of the existing urban areas.
4. New development is appropriately serviced by sewerage, stormwater, potable water and multimodal transport infrastructure.
5. New urban development provides for community facilities where appropriate.
6. Canterbury's important natural and physical resources affected by development are maintained.
7. Regionally significant infrastructure provides safe, effective and efficient services to people and the community.
8. The rural primary productive potential of Canterbury is maintained.
9. Ngāi Tahu can develop appropriate papakāinga housing and marae on ancestral land.
10. Potential land use, subdivision and/or development conflicts are avoided.

Chapter 6

Introduction

The focus of Chapter 6 is that it provides a resource management framework for the recovery of Greater Christchurch, to enable and support earthquake recovery and rebuilding, including restoration and enhancement, for the area through to 2028. Recovery in Greater Christchurch is also supported by provisions in Chapter 5 – Land use and infrastructure that are notated “Entire Region”. The provisions in the remainder of the CRPS also apply.

The purpose of Chapter 6 is to enable recovery by providing for development in a way that achieves the purpose of the Resource Management Act 1991.

Objective

Objective 6.2.1 Recovery framework

Recovery, rebuilding and development are enabled within Greater Christchurch through a land use and infrastructure framework that:

1. identifies priority areas for urban development within Greater Christchurch
2. identifies Key Activity Centres which provide a focus for high quality, and, where appropriate, mixed-use development that incorporates the principles of good urban design
3. avoids urban development outside of existing urban areas or greenfield priority areas for development, unless expressly provided for in the CRPS
4. protects outstanding natural features and landscapes including those within the Port Hills from inappropriate subdivision, use and development
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
7. maintains the character and amenity of rural areas and settlements
8. protects people from unacceptable risk from natural hazards and the effects of sea-level rise
9. integrates strategic and other infrastructure and services with land use development
10. achieves development that does not adversely affect the efficient operation, use, development, appropriate upgrade, and future planning of strategic infrastructure and freight hubs
11. optimises use of existing infrastructure and
12. provides for development opportunities on Māori Reserves in Greater Christchurch.

**ENVIRONMENT COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY**

**I MUA I TE KOOTI TAIAO O AOTEAROA
ŌTAUTAHI**

ENV-2021-CHC-

Under the **RESOURCE MANAGEMENT ACT 1991**

And

In the matter of an ex parte application pursuant to section 86D of the Act for rules in the proposed Waimakariri District Plan to have legal effect upon notification

By **WAIMAKARIRI DISTRICT COUNCIL**

Applicant

AFFIDAVIT OF YVONNE PFLUGER

LANDSCAPE AND RURAL CHARACTER

Affirmed 8 July 2021

BUDDLE FINDLAY

Barristers and Solicitors
Christchurch

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I, **Yvonne Pflüger** of Queenstown, Associate Partner Landscape Planner for Boffa Miskell Limited, affirm:

Qualifications and Experience

1. My name is Yvonne Pflüger. I am employed as a Landscape Planner for Boffa Miskell Limited (**BML**), an environmental consultancy specialising in planning, design and ecology. I have been employed at BML's Christchurch office for thirteen years and have been based in our Queenstown office for the past two years. I am an Associate Partner in the company.
2. I hold a Master's degree in Landscape Planning from BOKU University, Vienna (Austria, 2001) and a Master's degree in Natural Resources Management and Ecological Engineering from Lincoln University (NZ, 2005). I am a Full Member of the Resource Management Law Association and a registered member of the New Zealand Institute of Landscape Architects, as well as a Certified Environmental Practitioner under the Environment Institute of Australia and New Zealand.
3. I have practised as a landscape planner for 20 years on a wide range of projects including landscape and visual effects assessments at a wide variety of scales. During my time at BML, I have played a key role in preparing several landscape studies for various territorial authorities throughout New Zealand's South Island, including studies for the Canterbury (2010) and Southland (2019) Regions. I was the project manager and key author of a number of district-wide landscape studies (2006-2015), including Banks Peninsula, Ashburton, Timaru and Hurunui Districts and Christchurch and Invercargill City. The preparation of these studies, and subsequent hearing evidence, involved evaluating landscape character and quality for these regions and districts and advising councils on objectives and policies for the ongoing management of the landscape. For the Te Anau Basin I prepared an assessment of the landscape's capacity to absorb future development. In addition, I have provided evidence for a number of submitters on the Queenstown Lakes District Plan review over the past few years where I had to predominantly address issues relating to rural character and amenity, as well as rural lifestyle development.
4. Of particular relevance to this affidavit is my involvement in the preparation of the Waimakariri Landscape (2019) and Rural Character (2018)

Yvonne Pflüger
Y.P.

Assessments prepared by BML. I was the peer reviewer for both of these studies and have participated in the site visits undertaken for the assessment. The aim of the Waimakariri Landscape Assessment was to identify the location/boundaries and values of the Outstanding Natural Features and Landscapes (**ONLs** and **ONFs**) and any Significant Amenity Landscapes (**SAL**). The Waimakariri Rural Character Assessment was undertaken for Waimakariri District Council (**WDC**) to inform the management of activities and effects within and around the Operative Rural Zone, including the relationship with rural residential activities and existing small-lot rural development.

5. I confirm that I have spent approximately three days visiting the rural areas of Waimakariri District on several occasions over the past years, including most recently in 2020 to review the Rural Zone boundary line on the ground as requested by WDC. My site visits were limited to public roads. In addition, I have spent extensive time over the past decades recreating within the District and am very familiar with the landscapes of the District.
6. I have read the Code of Conduct for Expert Witnesses contained the Environment Court Practice Note 2014 and agree to comply with it. I have considered all the material facts that I am aware of that might alter or detract from the opinions I express. I confirm that the matters covered in this affidavit are within my area of expertise, except where I state that I am relying on the evidence of another person.

Scope

7. My evidence covers:
 - (a) What "rural character" is in a general sense;
 - (b) Rural character and amenity in the Waimakariri District
 - (c) Rural character and amenity in the Proposed Rural Zone;
 - (d) Consequences of 4ha subdivision and/or development generally and in the Proposed Rural Zone, from a rural character and rural amenity perspective.

Executive summary

8. In my evidence I provide landscape character descriptions of land within the Proposed Rural Zone of Waimakariri District, based on the Rural

Landscape Character Assessment prepared by BML in 2018. Detailed descriptions are provided for each of the following landscape character areas, having regard to their differences in terms of landform, land cover and land use, in particular in terms of settlement pattern and subdivision lot size:

- (a) Waimakariri River Plains
 - (b) View Hill - Eyrewell Plains
 - (c) Okuku - Ashley Plains (partially outside proposed Rural Zone)
 - (d) Oxford Downlands
 - (e) Mt Thomas Downlands
 - (f) Loburn - Sefton Downlands (partially outside proposed Rural Zone)
 - (g) Summer Hill Downlands
 - (h) Lees Valley Basin
 - (i) Oxford - Puketeraki Hill Country
9. My familiarity with the rural area of the District leads me to the view that the current 4ha subdivision standard is resulting in sporadic fragmentation of the Proposed Rural Zone. My assessment also leads me to the view that in places where subdivision to a 4ha density has been most prevalent within the Proposed Rural Zone, the rural character of the landscape is at risk of being lost altogether. These areas include in particular: parts of the Summerhill and Oxford Downlands, along the Okuku and Grey Rivers, and in the Eyreton / Horrelville / Cust area.
10. Other areas in the Proposed Rural Zone have not been modified to the same extent because limited 4ha subdivision has occurred in the past. These areas, such as the Mt Thomas Downlands, maintain a distinctive rural character with a predominant openness and lack of residential dwellings. Since these Downlands and parts of Summerhill are currently generally less developed, the prospect of small-lot subdivision would pose a high risk to these more sensitive landscape character areas that have generally a lower ability to absorb change.
11. Within the Plains landscape (apart from the Waimakariri River Plains) residential development has already modified the landscape more

substantially. While these landscapes display already compromised rural amenity, they are on the cusp of landscape change reaching a point where the rural character is lost. These parts of the Proposed Rural Zone are, in my view, sensitive to additional cumulative effects from residential development between existing settlements, where the rural landscape would give way to a settled residential character throughout the Rural Zone without the remaining openness and legibility of rural characteristics.

12. There is a preference, from a landscape and rural character perspective, for future rural residential development to be located where a high density of small rural lots is already found, such as within or immediately adjacent to existing settlements and villages. Concentration of small rural lots/rural residential subdivision in particular locations adjacent to existing settlements, rather than allowing sporadic fragmentation of the rural land, will serve to protect the open productive rural character in the Rural Zone while providing for areas of settlement with a more 'rural-residential' character.

Rural character generally

13. Landscape, as defined by the New Zealand Institute of Landscape Architects (**NZILA**), is the "cumulative expression of natural and cultural features, patterns and processes in a geographical area, including perceptions and associations" (NZILA, 2010). While all landscapes are dynamic and continually change, the rate of change varies under different physical, social and economic conditions.
14. Rural landscapes are inhabited landscapes, not to be confused with "wilderness" or "natural" landscapes where human presence is minimally present or absent. A Ministry for the Environment (**MfE**) publication '*The Impact of Rural Subdivision and Development on Landscape Values*'¹ provided the following description of Rural Character (p.64):

Rural landscapes are, by their nature, strongly influenced by the type of rural activity and the intensity of associated settlement. Natural elements generally remain strongly evident but are overlaid by patterns and processes of human activity. Natural systems, such as hydrological patterns, still operate but, in places, are manipulated to

¹ The Impact of Rural Subdivision and Development on Landscape Values, John Goodwin, Rachel de Lambert, Sarah Dawson, Shona McMahon and Allan Rackham of BML, published by MfE in July 2000. Available online at <https://www.google.co.nz/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjgZr6lq7nxAhXP4zgGHX8ZBbEQFjABegQIBBAD&url=http%3A%2F%2Fwww.qualityplanning.org.nz%2Fsites%2Fdefault%2Ffiles%2FImpact%2520of%2520development%2520on%2520rural%2520landscape%2520values%25201656264.pdf&usg=AOvVaw2ap-hOBevaYVWyN162bu8AE>.

enhance productivity. Human-induced patterns and processes are related predominantly to productive land uses such as agriculture, horticulture and forestry, typically including paddocks, shelter belts, wood lot and forest blocks, cropping regimes and settlement. The patterns of human activity are generally large scale (by comparison with urban areas), reflected in generally low-density settlement, few structures and often a sense of spaciousness.

15. The above guidance document lists the following aspects as contributing factors to rural amenity:
- (a) a sense of spaciousness (wide open spaces);
 - (b) privacy, quietness and absence of traffic and bustle;
 - (c) an environment relatively uncluttered by structures and artificial features;
 - (d) a clean environment, characterised by fresh air, clean water, etc.
16. Similar attributes have been cited in a variety of Environment Court decisions, such as *Kumeu Property Ltd v Auckland Council*² and *Auckland Regional Council v Waitakere City Council*³. While the description of a landscape's rural character is based on a value-free analysis, rural amenity values are derived from maintaining the essential components of rural character described above.

Rural Character in the Waimakariri District

17. In 2017-18 BML was engaged by WDC to prepare a Rural Character Assessment for the District. The scope of this assessment was to:

² *Kumeu Property Ltd v Auckland Council* [2018] NZEnvC 27 ('Kumeu Property Retirement Home') [para 76] "In previous cases and under the former Rodney Plan, there were attempts to try and identify the type of elements that go into rural character and amenity. [The landscape witness] cited a number of these in his evidence which we restate as:

- spaciousness,
- open pastures,
- open spaces,
- pastoral or other agricultural activities,
- animals, crops, shelter belts and functionally related buildings and structures,
- separation between housing and buildings relative to those found within urban areas,
- visual permeability and openness,
- awareness of the landforms and terrain that underpin individual land units,
- visual coherence and continuity."

³ *Auckland Regional Council v Waitakere City Council* A065/08 ('Christian Road') [para 61] "Rural character reflects the dominance of rural features such as rolling paddocks, streams, farming, livestock and horticultural activity to a degree that the overwhelming feeling is one of open countryside, a sense of productive activity and of managed nature. Although such a landscape may contain *buildings* and *structures* these are clearly subordinate to the expansive rural features such as paddocks and shelterbelts. The buildings and structures are so few in number that they do not impinge on this natural feeling, or they are designed and built in a way that they merge with the surrounding landscape and its natural values." Court's emphasis.

- (a) Identify character areas that make up the Proposed Rural Zone and describe the landform, land cover and land use elements, and key characteristics that typify each character area; and
 - (b) Determine any areas that are capable of, and suitable for, rural residential development or more intensive rural development/ subdivision (that is consistent with the character of each identified area).
18. This Rural Character Assessment included an analysis of the combined result of the landform, established land use and settlements patterns including vegetation and buildings. It did not consider in detail associated infrastructure such as transport and traffic, or factors that contribute to rural amenity such as noise or air quality.
19. The Proposed Rural Zone consists of three broad character typologies, based primarily on their contrasting topography: the Plains, Downlands, and Hill Country. These character types were further spilt into rural character areas in the BML Rural Character Assessment. Inevitably the subdivision pattern (lot size, lot density, extent of subdivision) has a strong influence on the land use activities and landcover patterns and, therefore, the subsequent rural character of an area. For example, an area dominated by small rural lots is typified by small paddocks, fenced and vegetated boundaries and road frontages, entranceway features and gates, long driveways, dwellings and out-buildings⁴. In contrast, larger lots associated with productive farmland are typified by large paddocks, with a lower frequency of boundary planting, fences, buildings and dwellings.

⁴ Note: throughout this affidavit I will refer to 4ha sized lots as small-lot rural subdivision

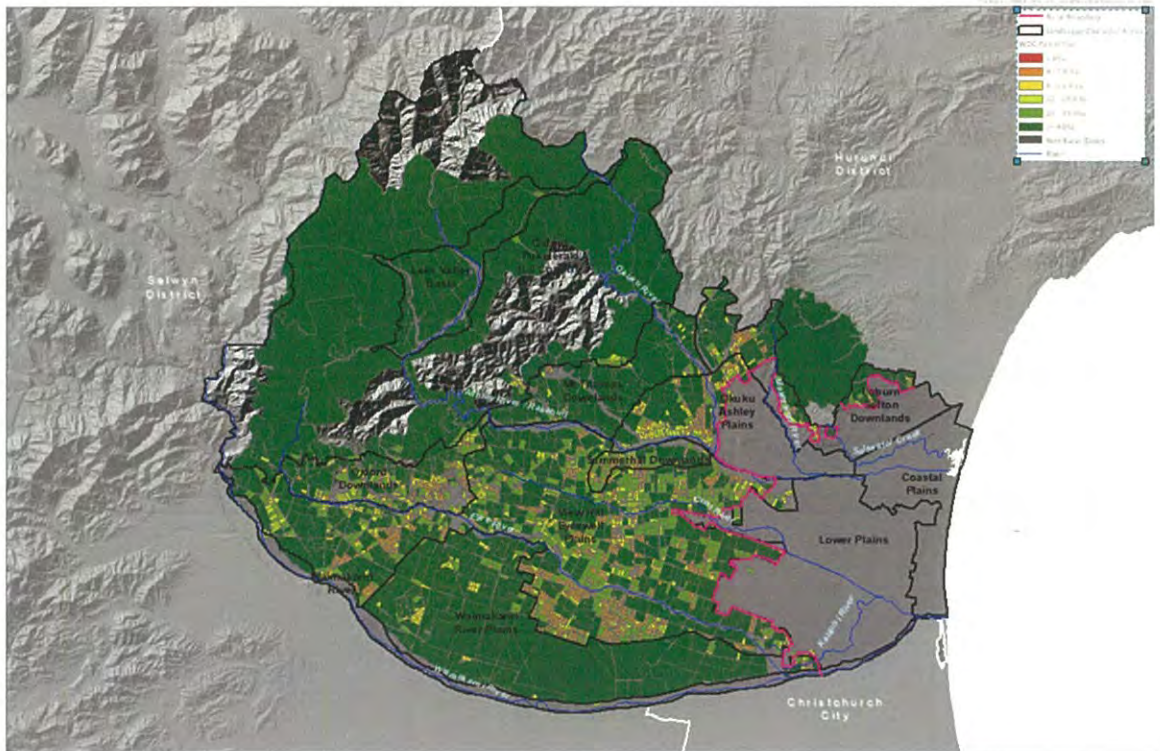


Figure 1 and Exhibit A (A3 Version): Rural Character Areas with proposed Rural Zone Boundary and underlying lot size analysis

20. When considered at a finer scale there are distinctly different types of rural character within the Proposed Rural Zone. The rural character varies along a continuum from the denser settlement patterns where rural living dominates (e.g. Ohoka/Mandeville in the area east of the Proposed General Rural / Rural Lifestyle Boundary) to open farmland areas where large scale primary production dominates (e.g. Eyrewell dairy farms). Although both landscapes have a rural character, the nature of the patterns and elements that combine to make that character are quite different; one type of rural character is not better or worse than another.

The Rural Character Areas

21. The following twelve Rural Character Areas were identified and described in detail in the Rural Character Assessment report (refer **Figure 1** and **Exhibit A** which shows the character areas with the parcel size analysis provided by WDC and the Proposed Rural Zone / Rural Lifestyle Zone Boundary):
- (a) Plains:
 - (i) Coastal Plains (outside the Proposed Rural Zone);
 - (ii) Lower Plains (outside the Proposed Rural Zone);

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- (iii) Waimakariri River Plains;
 - (iv) Waimakariri River (no residential development anticipated);
 - (v) View Hill – Eyrewell Plains;
 - (vi) Okuku – Ashley Plains (partially outside the Proposed Rural Zone);
- (b) Downlands:
- (i) Oxford Downlands;
 - (ii) Mt Thomas Downlands;
 - (iii) Loburn – Sefton Downlands (partially outside the Proposed Rural Zone);
 - (iv) Summer Hill Downlands;
- (c) Hill Country:
- (i) Lees Valley Basin;
 - (ii) Oxford – Puketeraki Hill Country.

22. The Rural Zone Boundary proposed by WDC mostly extends along landscape character area boundaries. This results in exclusion of the two eastern character areas from the Rural Zone (Coastal Plains, Lower Plains) and splitting the Okuku-Ashley Plains and Loburn-Sefton Downlands character areas. I reviewed the proposed boundary on the ground and small changes were made subsequently, that I support in general terms based on my existing knowledge of the areas. These changes were mostly suggested by WDC to avoid split zoning across land parcels.

23. I will focus my evidence on the character areas that are relevant to the Proposed Rural Zone (hence omitting Coastal Plains, Lower Plains and Waimakariri River character areas). In the character area outlines below I will not repeat the detailed landform, landcover and land use descriptions from the Rural Character Assessment report (BML, 2018), but will instead focus on the issues relating to the current level of residential built form development and patterns, as well as the landscape's capacity to absorb future development at a 4ha density. I note there is no residential development potential within the Waimakariri River Character Area, as it

comprises the active riverbed and floodplain. **Exhibit B** contains photographs that illustrate typical characteristics of each character area.

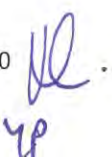
The Rural Character Areas in the Proposed Rural Zone

Waimakariri River Plains

24. While modified, these River Plains are characterised by a relative lack of built form and openness associated with intensive agriculture (predominantly dairy farming). Currently, there is very little rural lifestyle (4ha) or large-lot residential (0.5ha average) development. The built character is mostly comprised of farm dwellings and farm infrastructure including sheds, farm tracks, water storage ponds, pivot irrigators, and stop banks along the river. The amenity for rural living in this landscape character area is relatively low, since the outlook on the flats is constrained by shelterbelts and the visual diversity of the intensively farmed land provides limited interest. An open, large-scale productive landscape is key to the agrarian rural character of this area.
25. In order to maintain this agrarian rural character, it is important to retain the emphasis on primary production. Given the absence of established settlements in the character area there is little opportunity for rural residential development to be developed in association with existing settlements. In my opinion the sprawl of the existing Eyrewell settlement (which is located just to the north of this character area) should be avoided. This area displays a strong rural character and is largely comprised of large lot and productive uses. If 4ha rural subdivision was to occur throughout the area the existing visual coherence and openness would become compromised.

View Hill – Eyrewell Plains

26. The built form character in this area ranges from traditional to contemporary, reflecting the time of settlement. Old farmsteads can be glimpsed set behind dense established shelterbelts and exotic garden plantings, clustered with associated farm sheds. Some are set back just 30m from the road, while others are located down long, straight driveways. There are also traditional ribbon or road orientated patterns of development in older villages such as at Cust where there is a concentrated string of houses immediately fronting the Cust-Oxford Road (SH72).



27. The more recent and rapidly growing rural residential settlement, taking place on parcels such as those off Eyredale Road and Depot Road between Oxford and the Gorge Bridge, conveys a different pattern of modern homes typically set further back. These more recent dwellings are often set back 50-70m and occasionally further. As with much of the Waimakariri District, long straight roads are a distinct characteristic of this rural area, a result of the flat topography and historical alignments such as the Tram Road logging route. The more open nature of this character area (compared to the Lower Plains further east) accentuates the linearity of the roads and open expansiveness of the plains.
28. Parts of this character area are at risk of becoming continuous expanses of small lot subdivision at 4ha or below, with a similar settled character (i.e. dominated by residential uses) as already found in the Lower Plains character area. This is particularly evident in the eastern part of the character area south of the Eyre River and throughout the Horrellville/West Eyreton/ Cust area. While currently areas of open farmland remain, continuation of the current subdivision pattern is not sustainable in terms of retaining a pastoral rural character.
29. Unless 4ha development were concentrated in confined areas around the existing settlements such as Cust, Bennetts, Horrellville and West Eyreton, it could undermine the rural character of this landscape unit. It would be important to retain the large areas of rural productive land between the settlements avoiding further land fragmentation of open, pastoral farmland. The land in between these settlements provides a 'breathing space' of open rural landscape between built-up areas along the corridor between Rangiora and Oxford townships.

Okuku – Ashley Plains

30. Only the western part of this character area falls within the Proposed Rural Zone which my description below refers to. While the eastern area encompasses a range of small parcel sizes (from clusters of large-lot rural residential properties around 2,000-10,000m² to different scales of rural lifestyle lots), quite large tracts of land used for pastoral grazing can still be found around the Okuku area. Given the extent and maturity of vegetation in the area, much of the more mature built development is screened or filtered from roadside views.

31. There are many new rural residential properties containing medium to large modern homes which are noticeable due to the more limited vegetation around them. Some also introduce a new character and pattern where they occupy rear sections and/or where there are many properties sharing an access way rather than fronting a road.
32. The eastern parts of this character area (located outside the Proposed Rural Zone) are becoming continuous expanses of small lot subdivision with a similar 'residential' character to the Lower Plains character area. This is particularly evident from the Okuku River to Ashley between Loburn, Loburn North and extending along the northern margin of the Ashley River/ Rakahuri east of the Okuku River. While areas of open farmland remain in this part of the character area, continuation of the current subdivision pattern is not sustainable in terms of retaining a 'productive' rural character in the Proposed Rural Zone. The Okuku area west of the Okuku River retains an open pastoral landscape character despite an accumulation of 4-8ha lots along the west bank of the Okuku River and north bank of the Ashley River as far west as the Garry River. This pattern that currently only occurs close to the rivers should be avoided throughout the remainder of the character area (to the north and west).
33. In my view, any further residential development should be concentrated around existing settlement areas in the part of the character area that falls outside the Proposed Rural Zone, such as Ashley, Loburn and Loburn North, in order to coalesce the higher density development in defined locations and retain the large areas of rural productive land between the settlements. A proliferation of 4ha development elsewhere would threaten the existing rural character. The specific rural character of the local topography with alluvial plains dissected by rivers and streams provides high amenity along the waterways and, in my experience, it is likely that this area is considered desirable for future residential living.

Oxford Downlands

34. The settlement pattern on the outskirts of Oxford village consists of a proliferation of small farms between 4-8 ha and rural residential lots (smaller than 4ha), with the density decreasing where the slopes become steep towards Mt Oxford. The settlement pattern extends out from Oxford Township towards Coopers Creek and View Hill in the west and along Ashley Gorge Road towards the northeast. These areas have an

established settled landscape character and high amenity with mature exotic trees.

35. West of Coopers Creek, settlement becomes increasingly dispersed with little sign of recent subdivision to 4ha lots. The area immediately adjoining Oxford village to the east, north and west to Gammans Creek has a relatively continuous and diverse mix of small lots ranging from 1,000m²-4ha with a distinctive 'residential' rural character. Most of these small lots fall outside the Proposed Rural Zone. Within the Proposed Rural Zone there are several clusters of 1,000m²-10,000m² lots along Woodside Road and at Gammans Creek areas. These denser enclaves tend to occur on the flatter land. The density of lots less than 4ha decreases west of Coopers Creek and towards Ashley Gorge.
36. Future 4ha subdivision in the Proposed Rural Zone would pose the risk of sporadic fragmentation of rural land across the Oxford Downlands. In my opinion the creation of 4ha rural lots needs to be carefully managed if the rural character of this character area is to be retained. While smaller rural lots (around 4ha) may potentially be clustered immediately adjacent to already settled locations such as Oxford, Gammans Creek, Woodside and Coopers Creek without necessarily changing the existing character of these areas, the remainder of the open farmland should be retained in larger rural lots and farms above 20ha.
37. Elevated and hilly topography has a higher visual sensitivity to change (than flat land) in that poorly sited buildings or earthworks can be seen from many locations. A proliferation of residential buildings enabled through small-scale rural subdivision at a 4ha could lead to increased visual prominence of man-made structures and associated loss of rural character.

Mt Thomas Downlands

38. This Downlands landscape at the foot of Mt Thomas has a predominantly pastoral agricultural character with built form and modification largely limited to fencing, farm tracks, farm sheds and dwellings. Primarily it consists of farm buildings, sheds, barns, farm workers' accommodation and homesteads. Apart from outlying sheds, buildings are typically grouped together at the end of roads and each primary dwelling has a number of associated farm buildings clustered around. An essential element of this area's current rural character is an open, large-scale productive landscape with high amenity related to the outlook and visual diversity of the



landscape. With the exception of Glentui, there are no established settlements in this character area.

39. In my opinion, rural residential development or small lot subdivision cannot be absorbed in this character area without changing its existing rural character. I consider this area to be particularly vulnerable to adverse effects from 4ha development.

Loburn-Sefton Downlands

40. This long, narrow character area wraps around the base of Mt Grey and the Ashley Forest, which fall into adjacent Hurunui District. Only the western part and the elevated, less developed slopes of this character area are within the Proposed Rural Zone. This character area is characterised by a marked transition in slope from the Coastal and Okuku-Ashley Plains boundary up to the Mt Grey foothills. Within the Proposed Rural Zone a number of smaller (4-12ha lots) are located along the lower slopes of Mt Grey, in particular along Mt Grey and Smarts Roads east of the Grey River. The buildings in the Downlands range from homes and farm utility sheds clustered in well-established settings, to relatively new medium to large residential dwellings. The latter appear to be more numerous, located on evenly dispersed rural residential parcels fanning out from the Ashley/Rangiora area, breaking up open farmland into smaller scale blocks.
41. From Carrs Road in the Loburn area (located outside the Proposed Rural Zone), the relatively abrupt rise in slope and layers of vegetation limits views to existing residential dwellings located predominantly on smaller lots (4-12ha). In my opinion, there is a risk that a similar development pattern could continue along Carrs Road into the Proposed Rural Zone.
42. In the eastern part of the character area that falls outside the Proposed Rural Zone, small lots of 4ha and less are relatively common and dispersed throughout the area, particularly at lower elevations. The long-established settlements of Loburn North, Loburn and Sefton are recognised local communities. The clusters of more densely settled areas are separated from each other by medium to large areas of productive farmland.
43. The rural character resulting from the existing settlement pattern and density of small rural lots is between the denser 'settled' Oxford Downlands and the predominantly farmland rural character of the Mt Thomas Downlands. These remaining areas provide high rural amenity. From a

landscape perspective, to maintain the remaining rural character I consider any further small scale rural subdivision to 4ha or below should be concentrated around existing settlement areas, such as Ashley, Loburn, Loburn North and Sefton, which are all proposed to be outside the Proposed Rural Zone.

44. Elevated and hilly topography has a higher visual sensitivity to change (than flat land) in that poorly sited buildings or earthworks can be seen from many locations. This makes these areas more vulnerable to character change, as residential dwellings can more commonly visually dominate in the landscape. Future development of the downlands within the Rural Zone needs to be managed in terms of density by avoiding ongoing subdivision down to 4ha to ensure the rural character is retained. Based on my experience, I would expect development pressure for subdivision in this area to be high, due to the particular amenity it offers.

Summerhill Downlands

45. The Summerhill Downlands form a distinct unit characterised by its abrupt elevation within an otherwise relatively flat plains landscape, located just south of the Ashley River. The lower elevation and more gentle topography at the western end around Summerhill and Elliot Roads has the highest density of settlement within this character area, with small rural blocks between 4 and 8ha. Here, a number of newer, more densely settled rural lifestyle developments are located amidst scattered homes of more mature character.
46. There are a few small clusters of newer homes on the elevated central downlands. As these dwellings are clustered together, the open space between groups is maximised. Together with the rolling topography and vegetation this assists with their integration into the rural landscape. Compared to the adjacent plains area there are fewer lots of 4ha and less. As with the other Downlands area, the elevated slopes – which are highly visible from the surrounding plains – have an additional sensitivity to changed land uses.
47. Large sized farms (over 20ha) should be retained to provide a predominantly productive rural character on the Summerhill Downlands and to avoid change of its rural, open character to a more settled one with a proliferation of residential dwellings and associated amenity planting.

48. I believe the outlook and amenity on Summerhill make the type of rural character particularly attractive for rural living on small sized lots around 4ha. Based on my experience, I therefore see a high risk for further small lot subdivision with sporadic sprawl across all of the Summerhill Downlands (similar to what has already occurred on the gentler topography). While the steeper slopes are less likely to be subdivided, dwellings are likely to cause high visual impacts if located on these slopes due to their far-reaching visibility. The visual dominance of man-made structures, including residential dwellings, would detract from the openness and unobstructed long-distance views that is provided by the existing pastoral farmland.

Lees Valley Basin

49. The Lees Valley character area is a large, elevated basin floor enclosed by steep, undeveloped hill country and the mountains of the Puketeraki Ranges and Oxford foothills, dominated by pastoral farming and a sense of isolation. The Valley is very sparsely settled, however there are several moderately sized dwellings of various ages and a full array of farm buildings including woolsheds, workshops, cattle yards, three huts, and an office/staff amenities complex.
50. The remote high-country character is underpinned by openness, views to the mountain ranges, remote qualities relating to the difficult access and sparse settlement of the Basin. This area's current rural character is predominantly an open large-scale productive landscape with relatively extensive grazing. The Basin has open productive farmland character dominated by flat grazed pasture lands.
51. Rural subdivision down to lot sizes around 4ha could not be absorbed into the Lees Valley landscape without changing its existing rural character.

Oxford – Puketeraki Hill Country

52. The Oxford Foothills are characterised by a lack of built development and the large Conservation Areas of Mt Oxford and Mt Thomas, with their network of walking tracks. There are very few built elements in this character area. It is considered that this area has no ability to absorb rural subdivision to a density of 4ha due to high landscape character sensitivity and very low levels of existing modification.

General effect of 4ha subdivision on rural character and amenity

53. In addition to land form, land cover and land use, planning provisions in relation to rural living development⁵ influence the type of rural character that defines an area, including lot size provisions.
54. The openness of paddocks used for pastoral farming can change to a more enclosed landscape dominated by residential buildings/structures and planting of trees to provide privacy for their occupants. A reduction in productive rural activities through 4ha subdivision can lead to a domestication of the landscape which then becomes more dominated by man-made structures. The requirement for infrastructure supporting geographically dispersed residential development on 4ha lots, such as roads, can add to the impact on the landscape character and rural amenity.

Effect of 4ha development on the character of the Proposed Rural Zone

55. I understand that currently the operative Waimakariri District Plan allows for subdivision of lots (and building of a house) at a density of no less than 4ha anywhere in the Operative Rural Zone.
56. Ms Downie's affidavit outlines in paragraph 37 that the creation of 4ha to 7.99ha lots has increased particularly from 2018, and more than 300 were created in 2020 alone. In paragraph 40 she highlights that this lot size range is the most dominant lot size category in both Proposed Rural Zones, accounting for 94% of lots created in the Proposed Rural Lifestyle Zone between 2017 and 2020 and 86% of lots created in the Proposed General Rural Zone over the same period.
57. Activity on these smaller rural lots is typically focused on rural living with the balance land simply maintained as ancillary or used for small scale primary production. This can in turn affect the rural character and create reverse sensitivity situations.⁶ An effect on the productivity of the rural landscape can also change the character of it.
58. As outlined in Ms Downie's evidence some parts of the District have experienced notable concentrations of subdivisions to a 4ha minimum size over the past 10-15 years. She describes the areas that have undergone most substantial change as the periphery of Oxford, the View Hill Eyrewell

⁵ Rural living can occur on a variety of lot sizes, but in general the land associated with the residential building is not used for economic productive land uses to provide the primary income for the owners.

⁶ Impacts of newer uses on prior activities occurring in mixed-use areas. Some activities tend to have the effect of limiting the ability of established ones to continue.

Plains with a larger cluster northeast of Cust and the areas north of the Okuku Ashley Plains and between West Eyreton and Eyrewell Forest (south of Cust).

59. I have reviewed the map attached to her evidence showing undeveloped lots between 4 and 8ha in size. This development shows a similar pattern to what has already been developed in the areas outlined above. The undeveloped lots generally occur in these same areas and mostly consist of one or two adjacent lots. A very limited number of undeveloped larger subdivisions at this 4ha size have occurred outside the areas that have historically experienced the most substantial change (e.g. at Glentui and Summerhill). I understand there is potential for this unimplemented development to occur and I have specifically considered how that might affect my conclusions (if at all).
60. If further subdivision down to 4ha was to occur - in addition to what is already developed and what could be developed without further consents - I consider there is potential for a change in rural character. This potential for character change is described in more detail for each character area below. In particular, a continuation of extensive small lot rural subdivision into 4ha lots throughout the western, less developed part of the District is not desirable from a landscape perspective. The effect of this would be an increasing density of lifestyle blocks to the point of changing rural areas to a more settled character and an associated loss of openness.
61. My familiarity with the area leads me to the view that the current 4ha subdivision standard is resulting in sporadic fragmentation of the Operative Rural Zone. My assessment also leads me to the view that in places where subdivision to a 4ha density has been most prevalent within the Proposed Rural Zone, the rural character of the landscape is at risk of being lost altogether. These areas include, in particular, parts of the Summerhill and Oxford Downlands, along the Okuku and Grey Rivers, and in the Eyreton / Horrelville / Cust area.

Downlands

62. Future small lot subdivision to a 4ha density on the Oxford Downlands, Mt Thomas Downlands, Summerhill and Loburn-Sefton Downlands (the part that falls within the Operative Rural Zone) requires, in my view, management to avoid a change from the current openness and rural character provided by pastoral farmland to a more settled character. While

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the undulating topography of the Downlands is able to visually absorb some small lot subdivision and new dwellings, due to its ability to 'hide' built structures in the folds of the land, it is also the case that poorly sited structures in elevated or prominent locations can disproportionately change the rural character of an area.

63. These undulating Downlands are sensitive to change through built development associated with 4ha subdivision in terms of landscape character, as they currently provide particularly high amenity values. The outlook that can be gained from elevated areas makes these Downland areas attractive for residential development and the small-scale mosaic of land uses provides high visual diversity, creating a landscape of high aesthetic value. In my view, further 4ha subdivision in these areas would impact on the rural character and visual amenity of the Downlands along the foothills, which currently acts as a transition between the Plains and the steep, more natural hills of Mt Oxford, Mt Richardson, Mt Thomas and Mt Grey.

Plains

64. The Waimakariri River Plains currently provide a distinctive rural character that reflects the high intensity of agricultural use. Productive land uses that include intensive grazing with associated irrigation and large-scale vegetation removal (Eyrewell Forest and shelterbelts), mean that the landscape is very open with occasional interspersed shelterbelts. Overall, the visual diversity and amenity of this area is lower than on the Downlands but, based on existing patterns of settlement, I can see a real potential for residential development sprawling south and west from the settlement of Eyrewell. If this was to occur the character of the Waimakariri River Plains character area would become more closely aligned with the View Hill - Eyrewell Plains to the north that are visually more dominated by residential dwellings.
65. From the work I have conducted in this area, it seems to me the remainder of the plains landscape character areas (View Hill - Eyrewell Plains, part of Okuku - Ashley Plains) are currently experiencing high development pressures with ongoing 4ha subdivision between established settlements. These areas are, in my view, at risk of losing the remaining rural character that is currently encountered between settlements. Currently, the remaining open pastoral areas provide an openness between existing development

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that defines settlements in their extent. Given that most dwellings on 4ha lots are located relatively close to the road boundary I consider it likely that an increase of these lots would lead to additional residential dwellings appearing in relatively regular intervals (less than 500m between dwellings) along the roads between settlements. This type of sprawling development would undermine the current, visual definition of settlement boundaries, leading to a largely settled character throughout the landscape - similar to the eastern half of the district outside the Proposed Rural Zone.

Summary

66. There is a preference, from a landscape and rural character perspective, for future rural residential development to be located where a high density of small rural lots is already found, such as within or immediately adjacent to existing settlements and villages. Concentration of small rural lots/rural residential subdivision in particular locations adjacent to existing settlements, rather than allowing sporadic fragmentation of the rural land, will serve to protect the open productive rural character in the Rural Zone while providing for areas of settlement with a more 'residential' rural character.
67. If future rural residential development is planned to occur in association with existing settlements, careful consideration will need to be given on a location by location basis as to how this can be achieved sympathetically to retain and enhance the character of the settlement and adjacent rural area.
68. Overall, there are different levels of amenity found within the various character areas described above and different rural landscape attributes that would be protected through a 20ha subdivision standard, but not protected at 4ha.
69. If an area has higher amenity it makes it potentially more attractive for rural living, but it does not mean that it is more valuable from a rural character perspective. The vulnerability of a landscape to change varies depending on its characteristics described above, as well as the expected pressure for residential development.
70. Since the Downlands are currently generally less developed, the prospect of small-lot subdivision would pose a high risk to these more sensitive landscape character areas that have generally a lower ability to absorb change.

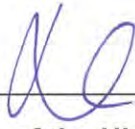
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A large blue signature or set of initials is written over the page number.
Below it, the letters 'YP' are written in blue ink.

71. Within the Plains landscape (apart from the Waimakariri River Plains) residential development has already modified the landscape more substantially. While these landscapes display already compromised rural amenity, they are on the cusp of landscape change reaching a point where the rural character is lost. These parts of the Proposed Rural Zone are, in my view, sensitive to additional cumulative effects from residential development on 4ha lots between existing settlements, where the rural landscape would give way to a settled residential character throughout the Rural Zone without the remaining openness and legibility of rural characteristics.

AFFIRMED at Christchurch this)
day of 8th July 2021)
before me:)



Yvonne Pflüger



A Solicitor of the High Court of New Zealand

Lisa Anne Catto
Solicitor
Christchurch

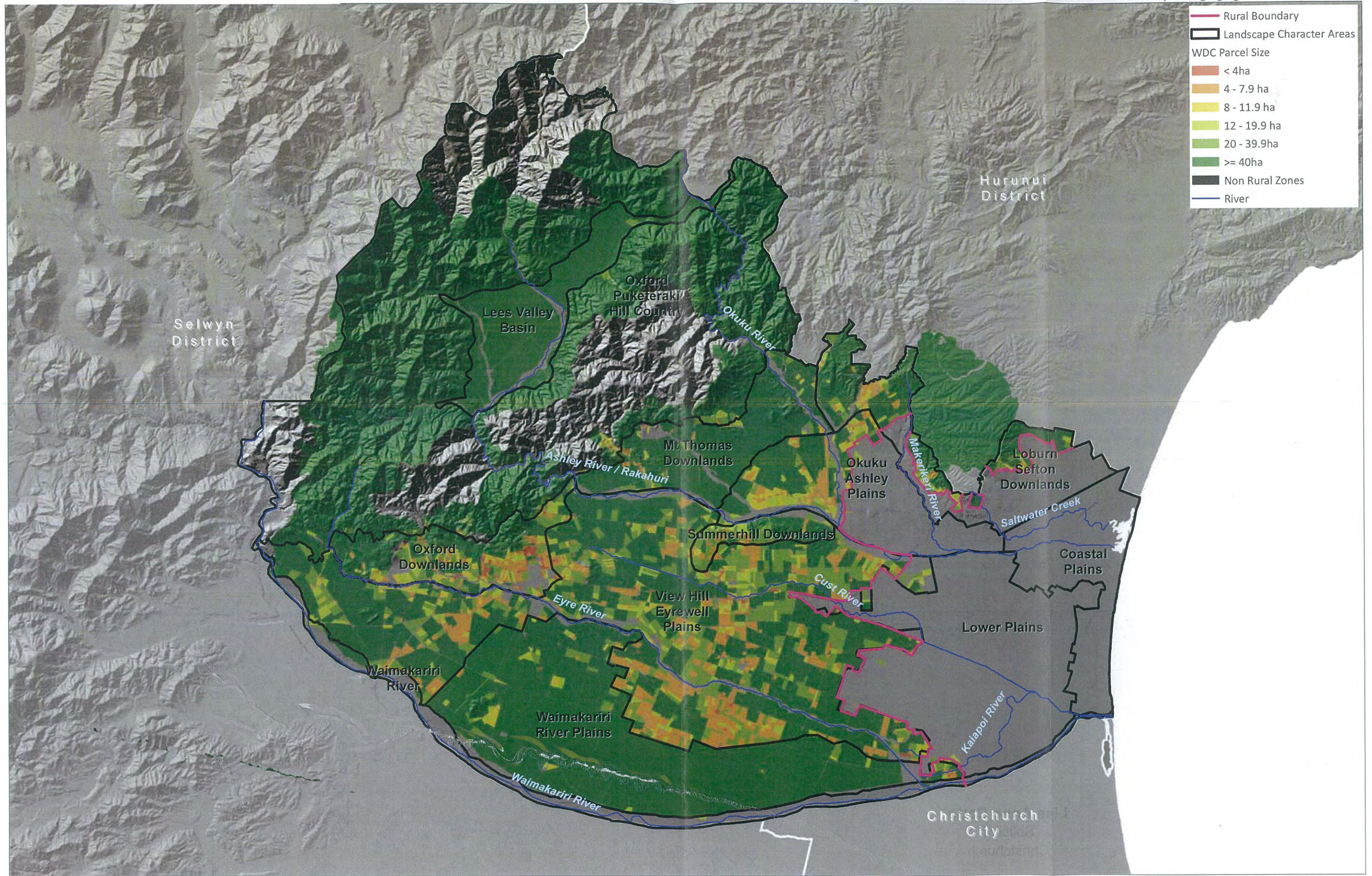
EXHIBIT NOTE

This is the annexure marked "A" referred to in the affidavit of
YVONNE PELUGER and sworn at Christchurch
this *8th* day of *July* 2021 before me

Signature.....*[Signature]*.....

A solicitor of the High Court of New Zealand
(Solicitor to sign in part on Exhibit)

Lisa Anne Catto
Solicitor
Christchurch



Handwritten initials 'YB'

EXHIBIT B - Photos of Relevant Character Areas



Open landscapes and productive land use dominates the Waimakariri River Plains character area. The intensive land use and low visual diversity provides a typical rural character but lower amenity.

EXHIBIT NOTE

This is the annexure marked "B" referred to in the affidavit of
YVONNE PFLUGER and sworn at Christchurch
this day of 8th July 2021 before me

Signature.....
A solicitor of the High Court of New Zealand
(Solicitor to sign in part on Exhibit)

Lisa Anne Catto
Solicitor
Christchurch

EXHIBIT B - Photos of Relevant Character Areas



Open landscapes and productive land use dominates the Waimakariri River Plains character area. The intensive land use and low visual diversity provides a typical rural character but lower amenity.



A diverse range of farm types with varying paddock sizes in the View Hill - Eyrewell Plains character area.



The Okuku and Makerikeri Rivers run through the Okuku Ashley Plains character area providing high amenity.



Settlement pattern on the Downslands north and northwest of Oxford village in the Oxford Downslands character area.



Downlands south of Okuku River dominated by pastoral farming in the Mt Thomas Downlands character area. This is the least developed downlands character area with high amenity.



Mix of small rural lots and farmland in the Loburn-Sefton Downlands character area. Rural character with associated openness occurs to the west of the Makerikeri River (part of character area located within the Proposed Rural Zone).

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Western end of Summerhill Downlands character area dominated by grazed pasture. The elevated landform provides outlook and higher visual diversity leading to a high overall amenity, making this area vulnerable to further change.



The relatively flat basin floor of the Lees Valley Basin character area is dominated by grazed pasture with some areas of valued indigenous habitat. This area has no capacity to absorb small-lot subdivision without substantial change to the high-country character.