

**BEFORE THE HEARINGS PANEL
FOR THE PROPOSED WAIMAKARIRI DISTRICT PLAN**

UNDER the Resource Management Act 1991 (RMA)
IN THE MATTER of the Proposed Waimakariri District Plan
AND
IN THE MATTER of Hearing Stream 10A: Development Areas, Airport
Noise Contour, Bird Strike and Growth Policies

**STATEMENT OF EVIDENCE OF JOANNE MITTEN ON BEHALF OF THE
CANTERBURY REGIONAL COUNCIL**

**DEVELOPMENT AREAS, AIRPORT NOISE CONTOUR AND
BIRD STRIKE AND GROWTH POLICIES**

1 FEBRUARY 2024

Canterbury Regional Council's Solicitor
PO Box 4341 CHRISTCHURCH 8140
DX WX11179
Tel +64 3 379 7622
Fax +64 379 2467

WYNN WILLIAMS

Solicitor: L F de Latour / K T Dickson
(lucy.delatour@wynnwilliams.co.nz /
kate.dickson@wynnwilliams.co.nz)

SUMMARY STATEMENT

- 1 The Canterbury Regional Council (**Regional Council**) submission was generally supportive of the notified Proposed Waimakariri District Plan (**pWDP**) provisions subject to this hearing stream. The Regional Council did, however, seek some amendments to the provisions relating to the Development Areas, Airport Noise Contour and Bird Strike and Growth Policies.
- 2 My evidence focuses on the recommendations that are important in giving effect to the National Policy Statement for Indigenous Biodiversity 2023 (**NPSIB**), the National Policy Statement for Urban Development 2020 (**NPSUD**) and the Canterbury Regional Policy Statement (**CRPS**), the relevant provisions of which I have appended as **Appendix 1** to my evidence.
- 3 I have reviewed the Section 42A (**S42A**) reports prepared by Mr Wilson (Wāhanga Waihangā – Development Areas and Variation 1 – Airport Noise Matters) and Mr Sheerin (Christchurch International Airport Limited - Airport Noise Contours and Bird Strike).
- 4 Some of the recommendations set out in the S42A reports address the Regional Council's concerns. Further, the relief sought in Hearing Stream 3 by the Regional Council (if adopted by the Panel) goes further towards addressing concerns regarding natural hazards. Where my concerns remain, I have suggested an amendment beyond those provided by the S42A reports. The amendment to the provisions recommended in my evidence (at paragraph [37]) focuses on the addition of an SNA and indigenous biodiversity assessment as part of the certification criteria for Development Areas, regardless of whether it is a certification criteria or restricted discretionary resource consent process.
- 5 I have some other remaining issues that I have not provided suggested amendments for, but have instead raised to assist the Hearing Panel in its decision:
 - a. I do not have a preference over whether a certification criteria or certification consent process is implemented, however any legal implications do need to be addressed.

- b. Policy 6.3.5(4) in the CRPS provides for an exception to noise sensitive activities within certain areas of the Kaiapoi New Development Area. Certain parts of the Kaiapoi New Development Area lie outside of the area to which this exception applies and therefore this noise sensitive policy direction does apply. In addition, the notified provisions show coastal inundation issues that in my opinion need to be addressed, and are most properly addressed through providing for the rezoning of the Kaiapoi New Development Area through a plan change, rather than a certification-type process.
- 6 I also agree with the approach of the S42A officer in relation to giving effect to the Airport Noise Contour that is contained within the CRPS. Any future amendments to the airport noise contour are required to go through a rigorous public process as part of a review of the CRPS, and only after they are included in any future update to the CRPS would territorial authorities be required to amend district plans to give effect to any new contours.

INTRODUCTION

- 8 My full name is Joanne Maree Mitten.
- 9 My qualifications and experience are set out in my evidence prepared for Hearing Stream 1 of the pWDP, as filed on 1 May 2023.
- 10 I have prepared this planning evidence on behalf of the Regional Council.

CODE OF CONDUCT

- 11 Whilst I acknowledge that this is not an Environment Court hearing, I confirm that I have read and am familiar with the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023. I have complied with the Code of Conduct in preparing this evidence and I agree to comply with it while giving any oral evidence during this hearing. Except where I state that I am relying on the evidence of another person, my evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
- 12 Although I am employed by the Regional Council, I am conscious that in giving evidence in an expert capacity that my overriding duty is to the Hearing Panel.

SCOPE OF EVIDENCE

- 13 I have been asked to provide evidence in relation to the Development Areas and Airport Noise Contour chapters of the Proposed Waimakariri District Plan (**pWDP**). My evidence addresses:
- a. An overview of the Regional Council's interest in the pWDP and the Development Areas, Airport Noise Contour chapters;
 - b. The relevant statutory framework with a particular focus on the CRPS;

- c. Recommendations in the relevant Section 42A Reports (insofar as they relate to the Regional Council's submission points), including:¹
 - i. The approach to the release of land for development generally;
 - ii. Specific concerns regarding the release of land for development in Kaiapoi; and
 - iii. The Airport Noise Contour provided for in the pWDP and its consistency with the CRPS provisions.

14 In preparing my evidence I have reviewed the following documents:

- a. the Section 32 report prepared and notified by Waimakariri District Council (**WDC**);
- b. the notified provisions of the New Development Areas and Airport Noise Contour chapters of the pWDP;
- c. the submissions made on the notified provisions within the Development Areas and Airport Noise Contour chapters of the pWDP, to the extent they are relevant to the Regional Council's interests;
- d. the s42A reports referred to above;
- e. the CRPS;
- f. the NPSUD; and
- g. the NPSIB.

REGIONAL COUNCIL'S INTEREST AND OVERVIEW OF SUBMISSION ON HEARING STREAM 10A OF THE PWDP

15 The Regional Council lodged a submission on the pWDP as notified. This submission indicated general support for the notified certification

¹ Officer's Report: Proposed Waimakariri District Plan: Wāhanga Waihanga – Development Areas (DEV), prepared by Mr Peter Wilson, dated 12 January 2024; Officer's Report: Proposed Waimakariri District Plan: Variation 1 – Airport Noise Matters, prepared by Mr Peter Wilson, dated 12 January 2024; and Officer's Report: Proposed Waimakariri District Plan: Christchurch International Airport Ltd - Airport Noise Contours and Bird Strike, prepared by Mr Neil Sheerin, dated 9 January 2024.

method for New Development Areas, while also noting specific additional information requirements that it considered would also be required to be assessed before any further land was released for development (specifically in relation to natural hazards and indigenous biodiversity).

- 16 There were also more specific concerns raised regarding the release of land through a similar mechanism in Kaiapoi, considering the additional constraints on development in that area (e.g. the Airport Noise Contour and coastal inundation issues). The Regional Council's submission sought that Kaiapoi be excluded from the certification process and instead proceed through a regular plan change process where these issues could be addressed. The Regional Council also supported the provisions regarding the Airport Noise Contour that gave effect to the contour mapped in the CRPS.

STATUTORY FRAMEWORK

- 17 My assessment of the relevant statutory framework that applies to the provisions the subject of this hearing stream is attached to my evidence as **Appendix 1**.
- 18 My opinion as expressed in this statement of evidence has been informed by this statutory framework, and I have taken guidance from the relevant policy documents when suggesting amendments to the provisions, given the requirement to give effect to both national policy statements and the CRPS under the RMA.

RECOMMENDATIONS IN THE S42A REPORTS

- 19 In setting out my opinions on the recommendations included in the S42A reports, I have followed the same general structure of the S42A reports. I address the process for the release of land generally (e.g. certification or otherwise) and the additional information I consider would need to be assessed, before proceeding to address specific issues in relation to the proposed Kaiapoi New Development Area, and the Airport Noise Contour itself.

Release of land for development generally

Certification process

- 20 As outlined in the section above, the Regional Council's submission generally supported the certification process, however, did request that some amendments are made to the certification criterion.
- 21 In his S42A report² Mr Wilson grouped the Regional Council's submission into the certification process discussion and assessment section. In this section he agreed with a number of submitters that the certification process as notified would not function efficiently and effectively. Mr Wilson also agreed with various submitters that geotechnical or hazard assessments are not suited to a simple Chief Executive Officer approval process due to their detail and often need for further information requests. He also noted that affected parties and public interests need to be provided for.
- 22 For these reasons Mr Wilson recommends that the certification process be replaced with a restricted discretionary activity 'certification consent' process. Mr Wilson suggests that the proposed certification criteria should become matters of discretion in an overall rule framework package with any specific differences for particular areas included as matters of discretion.
- 23 In his S42A report, Mr Wilson also sets out that the extent of the development area overlay is consistent with Map A of the CRPS and that any certification would only be applied to these areas.
- 24 The Regional Council's submission regarding the proposed certification process generally supported the process and deemed it as 'innovative'. The main area of concern I have is the need to ensure that the required technical information forms part of the criteria to limit any adverse effects stemming from new development, as outlined above in relation to the Regional Council's interest.
- 25 Therefore, I have no preference as to whether the proposed certification criteria with sign off by the Chief Executive or Mr Wilson's proposed resource consent process is implemented in order to release the land in the new development areas. I do however understand that there may be

² Section 42A Report – "Development Areas" dated 12 January 2024, at [81] – [87].

some legal issues that could stem from a certification resource consent, and this will be addressed in legal submissions for the Regional Council. My evidence will therefore focus on the technical information that is required to be assessed as part of any land release process.

Minimum housing density

- 26 I agree with Mr Wilson's assessment regarding the Regional Council's request to implement the minimum density of 15hh/ha. This is consistent with the remainder of the provisions of the pWDP, including in the subdivision chapter.

Flooding and geotechnical assessment

- 27 In relation to flooding and geotechnical assessment criteria, Mr Wilson states in his S42A report that the flooding and geotechnical risks are appropriately catered for within the certification criteria/matters of discretion.
- 28 It needs to be noted here that since the Regional Council's submission was lodged, several amendments were requested by myself and Mr Griffiths in Hearing Stream 3. One such amendment is the request for a new rule regarding activities that could cause offsite flood effects. The rule that was suggested to the Hearing Panel essentially states that activities should only be permitted where there will be no offsite flood effects and require resource consent where there will be offsite flood effects.
- 29 I agree that the appropriate technical checklists are in place regarding flooding and offsite flood effects, provided that the relief sought in Hearing Stream 3 by myself and Mr Griffiths to add a new rule regarding offsite effects is adopted. However, if this is not adopted then in my opinion there will need to be a discrete criterion that identifies any offsite flood risks, for the reasons identified within my and Mr Griffiths' evidence as part of Hearing Stream 3.

Indigenous biodiversity

- 30 In his s42A report, Mr Wilson did not provide any assessment on the Regional Council's request to insert criteria in relation to the protection of indigenous biodiversity in new development areas. He also did not provide any substantial assessment on the requirements to protect wetlands, other than noting that "the NESF and NPSFM requirements

have changed since the submission was notified, with land being presumed not to be a wetland, unless certain tests are met”.³

- 31 For completeness, I agree that the NPSFM definition of “natural inland wetland” has been amended since the Regional Council’s submission was lodged. However, the definition of natural inland wetland only excludes a wetland where it is within an area of pasture used for grazing, and has vegetation cover comprising more than 50 percent exotic pasture species.⁴ This exception also does not apply where the wetland is a location of a habitat of a threatened species. For this reason, I disagree with the S42A officer’s view of the effect of the amendments, and note that wetland areas present on Development Areas will still need to be assessed in accordance with this definition, potentially requiring technical input as to whether this definition is met or not.
- 32 In my view, and in consideration of the policies in the NPSIB, I believe that criteria regarding the protection of indigenous biodiversity is required as part of any certification process. The NPSIB clearly sets out under Clause 3.8 that every territorial authority must undertake a district-wide assessment of the land in its district to identify areas of significant indigenous vegetation or significant habitat of indigenous fauna that qualify as SNAs. The assessment must be carried out using the assessment criteria set out in Appendix 1 of the NPSIB and some explicit principles. Clause 3.11 does set out some exceptions to this, such as if the new development is required for mineral or aggregate extraction, there is a functional need or operational need for the new development to be in a particular location or that there are no other practicable locations for the new development.
- 33 While I accept that plan changes to give effect to the SNA requirements are not required to be carried out under the NPSIB until 2028,⁵ NPSIB Clause 3.16 sets out that for areas of indigenous biodiversity not in SNAs, any new subdivision, use or development that significantly adversely affects indigenous biodiversity must be managed using the

³ Section 42A Report – “Development Areas” dated 12 January 2024, at [97].

⁴ NPSFM, clause 3.21.

⁵ NPSIB, clause 4.2.

effects management hierarchy that is set out in the NPSIB. This clause must be given effect to as soon as reasonably practicable.⁶

- 34 The effects management hierarchy requires that adverse effects of an activity on indigenous biodiversity is firstly avoided where practicable, then minimised and where they cannot be minimised, remedied. Where more than minor residual adverse effects cannot be avoided, minimised or remedied, biodiversity offsetting is required. Where this is unachievable biodiversity compensation can be provided and if compensation is not appropriate then the activity is to be avoided. All other (non-significant) adverse effects must be managed to give effect to achieving no overall net loss in indigenous biodiversity.
- 35 As described in detail in Appendix 1, CRPS Chapter 9 seeks to halt the decline of the quality and quantity of Canterbury's biodiversity and also sets out significance criteria for ecosystems and indigenous biodiversity. The CRPS also seeks to protect and enhance ecologically significant wetlands.⁷
- 36 These documents clearly outline that the protection of both significant natural areas and other indigenous vegetation and fauna is a top priority for the Canterbury region. To give effect to both the NPSIB and the CRPS provisions, in my view it is essential that the protection of indigenous biodiversity is part of the certification criteria or matters of discretion for the release of land for new development. Without this provision, it is unclear how any significant adverse effects on indigenous biodiversity would become apparent before development occurs, in accordance with NPSIB clause 3.16.
- 37 If the Panel accepts my position on this, I consider an additional matter could be added (either to the criteria for certification, or conditions of a restricted discretionary activity rule) as follows:
- a. The provision of an assessment that includes identification of any SNAs, indigenous biodiversity and wetlands, and demonstrates that any significant adverse effects on indigenous biodiversity can be managed in accordance with the effects management hierarchy.

⁶ NPSIB, clause 4.1.

⁷ CRPS Objectives 9.2.1-9.2.3 and Policies 9.3.1-9.3.6

Integrated transport

- 38 In its submission, the Regional Council requested that the need for integrated land use and transport be included in the certification criterion. In his S42A report assessment, Mr Wilson did not refer to the need for integrated transport systems in new development areas. However, Mr Wilson did add this criterion in his amendments in DEV-R1. I agree with Mr Wilson's amendments in relation to transport as it gives effect to the policies in CRPS Chapters 5 and 6 and the NPS-UD.

Kaiapoi New Development Area

- 39 As noted above, the Regional Council's submission sought to highlight that the Kaiapoi new development area is subject to a number of particular development constraints that the proposed certification process may not be able to adequately address.
- 40 Policy 6.3.5(4) sets out that the recovery of Greater Christchurch is to be assisted by the integration of land use development with infrastructure by: only providing for new development that does not affect the efficient operation, use, development, appropriate upgrading of infrastructure and by avoiding noise sensitive activities within the 50dBA Ldn airport noise contour for Christchurch Airport, **unless** the activity is within an existing residentially zoned urban area, residential greenfield area identified for Kaiapoi, or residential greenfield priority area identified in Map A.
- 41 The relevant CRPS map showing the various different types of areas, as well as the Airport Noise Contour, is included in my evidence below as **Figure 1**.



Figure 1: CRPS Map A (Source: Canterbury Maps)

- 42 Some parts of the Kaiapoi New Development Area are within an existing residentially zoned urban area, residential greenfield area or residential greenfield priority area whereas other parts are not (as some parts of the New Development Area are identified as a Future Development Area on Map A). Under the CRPS Policy 6.3.5(4), the part of the Kaiapoi New Development Area that is not in these existing residential zoned or greenfield areas shown on Map A is required to be restricted by this directive policy for noise sensitive activities.
- 43 In his S42A report, Mr Wilson does not identify that this policy could restrict where new development can occur. It is my view that the CRPS is clear in terms of where noise sensitive activities can occur and cannot occur, and as Policy 6.3.5(4) is directive, in order to give effect to it this is a relevant matter that must be assessed as part of the potential enabling of development on this land. The view that I hold is consistent with the view of Regional Council officers at the time of Proposed Plan Change 1 to Chapter 6 of the CRPS. The Officers set this out in their recommendation to the Minister as part of the streamlined planning process, with their report stating that “there is no exemption for noise sensitive activities in FDAs and any development would therefore need

to comply with Policy 6.3.5".⁸ In essence, noise sensitive policies apply to any FDA within the airport noise contour.

- 44 I acknowledge that this limitation on development could pose a problem in terms of meeting the necessary housing demand and will need to be carefully considered when deciding on the best way to achieve further development of the Kaiapoi area.
- 45 The Regional Council's submission raised the possibility of the Kaiapoi New Development Area potentially meeting the criteria of a coastal hazard under the New Zealand Coastal Policy Statement and raised a specific concern regarding filling creating an increase in risk elsewhere from displaced floodwaters.
- 46 I note that as part of the notified pWDP provisions, the Kaiapoi New Development Area is within the Coastal Flood Assessment Area and the Non-Urban Flood Assessment Area. Mr Debski's evidence as part of Hearing Stream 3 recommends that the coastal flood assessment area be amended to show a 0.5% AEP event, and that this would give effect to the policies in the CRPS.⁹ This change to 0.5% AEP from the notified 1% AEP may increase the extent of the coastal flood assessment area in relation to the Kaiapoi New Development Area. This means that coastal flood hazard may still be a necessary consideration in relation to the Kaiapoi New Development Area.
- 47 Given these particular constraints, in my view the Panel should give careful consideration as to whether a certification-type process is appropriate for this area, or whether it would be more appropriate for this land to be released through a rezoning process, which would enable holistic consideration of the relevant hazards and development constraints, and also allow necessary amendments to be made to other District Plan provisions that apply within this area if required.
- 48 For these reasons, it is my opinion that the Kaiapoi New Development Area should not be included as part of any certification (or similar) process and should instead be rezoned through a plan change process.

⁸ Report to the Minister for the Environment on Proposed Plan Change 1 to Chapter 6 of the Canterbury Regional Policy Statement, March 2021, pg 29 para 152.

⁹ Statement of Evidence of Damien Debski, Hearing Stream 3, at [31].

Airport Noise Contours

NOISE-P4

- 49 The Regional Council's submission supported the proposed noise contour management for Christchurch International Airport of 50dBA Ldn as set out in NOISE-P4 because it is consistent with (and therefore gives effect to) CRPS Policy 6.3.5.
- 50 In his S42A report, Mr Wilson agrees that the 50dBA Ldn contour as notified is appropriate as it fully aligns with the operative 50dBA Ldn contour and ensures consistency between the proposed District Plan Airport Noise Contour and the Variation 1 qualifying matter.
- 51 I agree with Mr Wilson's recommendation for the reasons he has provided. The 50dBA Ldn noise contour is set out in the operative CRPS under Policy 6.3.5(4) and was implemented after a rigorous public process.
- 52 CRPS Policy 6.3.11 - Monitoring and review sets out the process that is to be implemented in order to review the airport noise contour. First, prior to initiating a review of Chapter 6 of the CRPS, the Regional Council can request the remodelling of the airport noise contours. The methods then go on to set out what is required to be included in the remodelling of the airport noise contours and that when this report is complete an independent panel of experts are to review the report. The Regional Council must then make this report publicly available as soon as practicable.
- 53 Currently the CRPS is under review and is scheduled to be notified at the end of 2024. As part of this CRPS review, the airport contours have been remodelled and the report that was produced has been peer reviewed by an independent expert panel. This report is publicly available on the Regional Council's website.¹⁰ Public consultation regarding the remodelled contours has also occurred through the recent spatial plan process.

¹⁰ "Council reviews airport noise contours", Environment Canterbury, <https://www.ecan.govt.nz/get-involved/news-and-events/2021/council-reviews-airport-noise-contours/>

- 54 As part of the CRPS review, any new recommended noise contours will be notified in December 2024 and open to submissions, hearings and appeals, being thoroughly tested through a public consultation process. Only once a decision is made on the noise contour and inserted into the CRPS will the territorial authorities also be required to implement a plan change to their District Plans to give effect to any new CRPS (and any new contour).

CONCLUSION

- 55 In summary, I generally agree with the recommendations of the S42A report officers. I have no preference as to the process used for certification, whether that be a certification criteria (for sign off by the Chief Executive) or a certification resource consent, but have focussed on the technical information that would need to be provided (rather than the potential legal issues), for example in relation to natural hazards and indigenous biodiversity.
- 56 I have provided an amendment by way of an additional criterion to address the need for any new development areas to include an assessment on whether any SNAs, indigenous biodiversity or wetlands are present.
- 57 I have also highlighted to the Hearing Panel my concern in relation to the noise sensitive activities exception issue related to parts of the Kaiapoi New Development Area under CRPS Policy 6.3.5(4), as well as the necessary natural hazards considerations, to demonstrate my view that given the various development constraints this area should be rezoned through a separate plan change process to allow more detailed consideration of these matters, rather than a certification-type process.
- 58 I have also demonstrated the reasons that I support the inclusion and reference to the 50dBA Ldn Airport Noise Contour that is currently included in the CRPS, as doing so is required in order to give effect to the CRPS.

Dated this 1st day of February 2024



Joanne Mitten

APPENDIX 1: STATUTORY FRAMEWORK-

1 Section 75(3) of the RMA requires that:

A district plan must give effect to –

- (a) any national policy statement; and*
- (b) any New Zealand coastal policy statement; and*
- (ba) a national planning standard; and*
- (c) any regional policy statement.*

2 Relevant national and regional planning documents that the provisions relevant to Hearing Stream 10A of the pWDP must give effect to include the National Policy Statement on Urban Development 2020 (**NPS-UD**), the National Policy Statement for Indigenous Biodiversity 2023 (**NPSIB**) and the Canterbury Regional Policy Statement (**CRPS**).

3 Section 75(4) of the RMA requires that a district plan must not be inconsistent with any applicable water conservation order or regional plan, including the Canterbury Land and Water Regional Plan (**LWRP**).

4 I have not sought to repeat all the provisions contained in these national and regional planning documents. My evidence focusses on those I consider to be most relevant to the chapters covered by Hearing Stream 10A of the pWDP and the submission made by the Regional Council.

5 I address the NPSUD, the NPSIB and the CRPS further below.

NPS-UD

6 The NPS-UD came into force in August 2020, replacing the NPS on Urban Development Capacity 2016. It applies to all local authorities that have all or part of an urban environment within their district or region (identified as Tier 1, 2 and 3 local authorities, informed by population size and growth rates), and to planning decisions by any local authority that affect an urban environment.

7 For the purposes of the NPS-UD, Christchurch is identified as a Tier 1 urban environment. The Canterbury Regional Council, Christchurch City Council, Waimakariri District Council and Selwyn District Council are Tier 1 local authorities.

- 8 The NPS-UD contains eight objectives and 11 policies. No objectives or policies are expressed as having priority over another.
- 9 Central to the NPS-UD is a focus on the achievement of well-functioning urban environments (Objective 1 and Policy 1). Policy 1 articulates a set of outcomes for local authorities to use when preparing plans and making decisions and sets direction for the intended outcomes of the NPS-UD.
- 10 Objective 2 is that planning decisions improve housing affordability by supporting competitive land and development markets.
- 11 Objective 7 is that local authorities have robust and frequently updated information about their urban environments and use it to inform planning decisions.
- 12 Relevant to these objectives is Policy 2, which requires that Tier 1, 2, and 3 local authorities, at all times, provide at least sufficient development capacity to meet expected demand for housing and for business land over the short, medium, and long term. In order to be 'sufficient' to meet expected demand for housing, the development capacity must be:
- a. Plan-enabled (i.e. in relation to the short term, zoned in an operative district plan; in relation to the medium term zoned in an operative or proposed district plan; in relation to the long term, zoned or identified for future urban use or intensification in a Future Development Strategy (FDS));
 - b. Infrastructure-ready (i.e. development infrastructure is available (short term), funded (medium term), or identified in a local authority's infrastructure strategy (long term));
 - c. Feasible and reasonably expected to be realised; and
 - d. For Tier 1 and 2 local authorities, meet the expected demand plus the appropriate competitiveness margin.
- 13 Additional obligations on Tier 1 local authorities under the NPS-UD include:
- a. To set housing bottom lines for the short to medium term and the long term in regional policy statements and district plans (Policy 7);

- b. To undertake quarterly monitoring of urban development indicators (Part 3, subpart 3, clause 3.9);
 - c. To prepare a Housing and Business Development Capacity Assessment (Part 3, subpart 5); and
 - d. To prepare a Future Development Strategy (Part 3, subpart 4).
- 14 Policy 6 sets out matters decision makers must have particular regard to when making planning decisions that affect urban environments. These matters include:
- a. the planned urban built form anticipated by RMA planning documents that have given effect to the NPS-UD;
 - b. the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1);
 - c. any relevant contribution that will be made to meeting the requirements of the NPS-UD to provide or realise development capacity; and
 - d. the likely current and future effects of climate change.
- 15 The NPS-UD introduced a 'responsive planning framework', established by Objective 6, Policy 8 and Clause 3.8. Objective 6 requires that local authority decisions on urban development that affect urban environments are:
- a. integrated with infrastructure planning and funding decisions; and
 - b. strategic over the medium term and long term; and
 - c. responsive, particularly in relation to proposals that would supply significant development capacity.
- 16 The obligations set out above are key mechanisms to implement Objective 6, to ensure integration with infrastructure planning and funding decisions and that decisions that affect urban environments are strategic and provide Councils with the evidence base to be responsive.
- 17 Change 1 to Chapter 6 of the CRPS is an example of this, where the housing capacity assessment (undertaken under the previous NPS-UDC) identified a potential shortfall in development capacity. Our Space 2018-2048 then identified locations for future urban growth and a

change to the CRPS was promulgated in accordance with that document. Now the pWDP is required to implement the CRPS.

NPSIB

- 18 The NPSIB was gazetted in August 2023 with the objective to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity, achieving this through four specific actions (including by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance, and while providing for the social, economic and cultural wellbeing of people and communities now and in the future).
- 19 It contains 17 policies and provides national direction for councils regarding significant natural areas (SNAs). Policy 8 is of particular relevance, stating that “the importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for”.
- 20 The NPSIB then contains a number of implementation clauses to provide guidance to relevant authorities as to how to give effect to its provisions. Under Clause 3.8, the NPSIB sets out that every territorial authority must undertake a district-wide assessment of the land in its district to identify areas of significant indigenous vegetation or significant habitat of indigenous fauna that qualify as SNAs. The assessment must be carried out using the assessment criteria set out in Appendix 1 of the NPSIB and some explicit principles
- 21 It also sets out that SNAs are not the only places that are important for biodiversity. Clause 3.16 sets out that for areas of biodiversity not in SNAs, any new subdivision, activity or development that significantly affects indigenous biodiversity and requires resource consent is to be managed using the effects management hierarchy that is set out in the NPSIB. The effects management hierarchy is as follows:¹¹

*“**effects management hierarchy** means an approach to managing the adverse effects of an activity on indigenous biodiversity that requires that:*

(a) adverse effects are avoided where practicable; then

(b) where adverse effects cannot be avoided, they are minimised where practicable; then

¹¹ National Policy Statement for Indigenous Biodiversity, 2023

(c) where adverse effects cannot be minimised, they are remedied where practicable; then

(d) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, biodiversity offsetting is provided where possible; then

(e) where biodiversity offsetting of more than minor residual adverse effects is not possible, biodiversity compensation is provided; then

(f) if biodiversity compensation is not appropriate, the activity itself is avoided.”

- 22 All other adverse effects must be managed to give effect to achieving no overall net loss in indigenous biodiversity.

Canterbury Regional Policy Statement

CRPS Chapter 5 - Land-use and Infrastructure

- 23 The policy framework in the operative CRPS that is relevant to urban development issues is mainly found in Chapters 5 and 6. Some of the issues and objectives within Chapter 5 – Land Use and Infrastructure, apply across the entire Canterbury region, while others apply outside the Greater Christchurch area. For the Greater Christchurch area, the issues to be resolved, and the manner in which the objectives are to be implemented, are set out in Chapter 6 – Recovery and Rebuilding of Greater Christchurch. Part of the Waimakariri District lies within Greater Christchurch.
- 24 Objective 5.2.1 requires that development is located and designed to achieve consolidated, well designed and sustainable growth in and around existing urban areas as the primary focus for accommodating growth.

CRPS Chapter 6 - Recovery and Rebuilding of Greater Christchurch

- 25 Chapter 6 of the CRPS focuses on the metropolitan urban area of Greater Christchurch and towns. For the purposes of Chapter 6, the geographic extent of Greater Christchurch is shown in Map A. Recovery in Greater Christchurch is also supported by provisions in Chapter 5- Land use and infrastructure.
- 26 Chapter 6 provides the resource management framework for earthquake rebuild and recovery in Greater Christchurch through to 2028. Its insertion was directed by the Minister for Canterbury Earthquake Recovery through the Land Use Recovery Plan 2013. Chapter 6 also

implements the strategic direction provided in the Greater Christchurch Urban Development Strategy 2007.

- 27 On 28 May 2021, the Minister for the Environment approved Change 1 to Chapter 6 of the CRPS (Change 1) via a streamlined planning process. Change 1 implements actions in Our Space 2018–2048 and gives effect to the requirement in the NPS-UD for local authorities to provide at least sufficient development capacity to meet expected demand for housing and business land over the short, medium, and long term.
- 28 In summary, Change 1 amended Chapter 6 and Map A of the CRPS to identify FDAs within the existing Projected Infrastructure Boundary in Rolleston, Rangiora and Kaiapoi, and inserted associated policy provisions which enable land within these areas to be rezoned by the Selwyn and Waimakariri District Councils if required to meet their medium term (10 year) housing needs. Change 1 was made operative on 28 July 2021.
- 29 Chapter 6 is more directive than Chapter 5. Map A in Chapter 6 identifies the location and extent of urban development that will support recovery, rebuilding and planning for future growth and infrastructure delivery in Greater Christchurch. Significantly, all anticipated urban development is located within the PIB. Within the PIB, the policy framework in Chapter 6 provides for the development of land within existing urban areas, greenfield priority areas, and future development areas where the circumstances set out in Policy 6.3.12 are met, at a rate and in locations that meet anticipated demand and enables the efficient provision and use of network infrastructure. Urban development outside of these identified areas is to be avoided, unless expressly provided for in the CRPS.
- 30 However, simply because an area may be identified as an FDA under the CRPS provisions, this does not mean that it can automatically be developed. There are still other criteria that are required to be met (see Policy 6.3.12 of the CRPS), for example if the land that is in a high hazard area.
- 31 Chapter 6 contains six objectives and 12 policies. Objective 6.2.1 sets out a land use and infrastructure framework to enable recovery, rebuilding, and development within Greater Christchurch. Objective

- 6.2.1a provides that at least sufficient development capacity for housing is enabled in Greater Christchurch in accordance with the targets set out in table 6.1.
- 32 Objective 6.2.2 seeks an urban form that achieves consolidation, intensification of urban areas and the avoidance of unplanned expansion and sets a range of actions to help ensure achievement (such as by providing for the development of land within Future Development Areas identified on Map A where the circumstances in Policy 6.3.12 are met).
- 33 There are numerous policies in Chapter 6 of the CRPS. Policy 6.3.1 sets out that in relation to the recovery and rebuilding of Greater Christchurch, development must give effect to Map A in the CRPS that sets out the locations where future development is to occur.
- 34 Through Policy 6.3.3 development in future development areas is to occur in accordance with the provisions set out in an outline development plan, with subdivision not to proceed ahead of the incorporation of an outline development plan in a district plan. Policy 6.3.3 also sets specific requirements for outline development plans in terms of their content and detail.
- 35 Policy 6.3.5 sets out that the recovery of Greater Christchurch is to be assisted by the integration of land use development with infrastructure and 6.3.5(4) states that new development is not to affect the efficient operation of, use, development, or appropriate upgrading of existing strategic infrastructure, including by avoiding noise sensitive activities within the 50dBA Ldn airport noise contour for Christchurch International Airport, unless the activity is within an existing residential area, a residential greenfield area identified in Kaiapoi, or a residential greenfield priority area identified in Map A.
- 36 Policy 6.3.11- Monitoring and Review sets out the monitoring and review requirements in relation to development in Greater Christchurch. This policy sets out the process for reviewing and remodelling the airport noise contours both within the policy and the associated methods.
- 37 Policy 6.3.12 seeks to enable urban development in the Future Development Areas identified on Map A under a set of circumstances as summarised below:

- that there is a need to provide further feasible development capacity to meet the housing bottom lines set out in Table 1,
- that the development would promote the efficient use of urban land and support settlement patterns
- that the timing and sequencing of development is appropriately aligned with infrastructure
- that the development would occur in accordance with an outline development plan
- that it meets the circumstances set out in Policy 6.3.11(5)
- that the effects of natural hazards are avoided or appropriately mitigated in accordance with CRPS Chapter 11.

CRPS Chapter 9 – Ecosystems and Indigenous Biodiversity

Policy framework

- 38 The policy framework in the operative CRPS for managing indigenous biodiversity is mostly contained within Chapter 9. Chapter 9 seeks to halt the decline in the quality and quantity of Canterbury's ecosystems and indigenous biodiversity. It contains objectives and policies directing that significant indigenous vegetation and habitats of indigenous fauna are protected and provides criteria for determining the significance of indigenous vegetation.
- 39 This approach is reflected in the Chapter's objectives, which are outlined below:
- a. Objective 9.2.1 seeks to halt the decline in the quality and quantity of Canterbury's ecosystems and biodiversity and that their life-supporting capacity and mauri is safeguarded.
 - b. Objective 9.2.2 seeks restoration or enhancement of ecosystem functioning and indigenous biodiversity in appropriate locations, particularly where it can contribute to Canterbury's distinctive natural character and identity and to the social, cultural, environmental and economic well-being of its people and communities.

- c. Objective 9.2.3 seeks that areas of significant indigenous vegetation and significant habitats of indigenous fauna are identified, and their values and ecosystem functions protected.
- 40 These objectives are implemented by six policies:
- a. Policy 9.3.1 sets out significance criteria for determining the significance of ecosystems and indigenous biodiversity and seeks to protect areas identified as significant to ensure no net loss of indigenous biodiversity or indigenous biodiversity values.
 - b. Policy 9.3.2 recognises areas that are national priorities for protection such as threatened land environments where less than 20% of the original indigenous vegetation cover remains, indigenous vegetation associated with sand dunes and wetlands, indigenous vegetation located in originally rare terrestrial ecosystem types and habitats of threatened or at-risk indigenous species.
 - c. Policy 9.3.3 encourages an integrated and co-ordinated approach to halting the decline in indigenous biodiversity.
 - d. Policy 9.3.4 relates to the enhancement and restoration of ecosystems and indigenous biodiversity.
 - e. Policy 9.3.5 relates to the protection and enhancement of ecologically significant wetlands. This includes protecting the values of wetlands, promoting restoration and creation of wetlands, and protecting adjoining areas of indigenous vegetation
 - f. Policy 9.3.6 relates to biodiversity offsets and sets out criteria that apply to their use. This includes the situations where using biodiversity offsets is appropriate.

CRPS Chapter 11 - Natural hazards

Responsibilities of the Regional Councils and Territorial Authorities

- 41 The CRPS (in Chapter 11 - Natural Hazards) states that the Regional Council is responsible for the control of the use of land for natural hazards in areas:
- a. within the 100-year coastal erosion hazard zones outside of greater Christchurch;

- b. within areas in greater Christchurch (including Waimakariri)¹ likely to be subject to coastal erosion and sea water inundation, including sea level rise over the next 100 years where provisions are not specified in an operative district plan;
 - c. within the beds of lakes and rivers; and
 - d. within the coastal marine area.
- 42 Territorial authorities are responsible for controlling the use of land, to avoid or mitigate natural hazards outside of the beds of lakes and rivers and outside of the coastal marine area. Flooding from the coast often extends landward of mean high water springs (the Regional Council's jurisdiction) and into the territorial authority's jurisdiction where mitigation needs to occur, especially in relation to land use and development.
- 43 Joint responsibility between the Regional Council and territorial authorities exists for the control of land use, to avoid or mitigate natural hazards in areas subject to seawater inundation - however only territorial authorities are responsible for developing rules.

Policy framework

- 44 The policy framework in the CRPS that is relevant to natural hazards is mainly found in Chapter 11. This chapter provides an approach for risk-based management of natural hazards in Canterbury. A three-tiered hierarchy approach is applied. The priority is to avoid development in high-risk or hazard-prone areas and matching land use to anticipated change in climatic conditions in the future.
- 45 If avoidance is not possible, the second priority management approach is to mitigate or reduce the effects of natural hazards, with the acknowledgement that there will be some residual adverse effects from natural hazards. The third priority outlined in Chapter 11 provides for the response to and recovery from the consequences of natural hazard events.
- 46 Of relevance to Hearing Stream 10A, Policy 11.3.2 of the CRPS seeks to avoid development in areas subject to inundation through managing natural hazard flooding (outside of high hazard areas) where flooding is expected to occur in a 0.5% AEP flood event (or 200-year Average Recurrence Interval (ARI) event). Like Policy 11.3.1, Policy 11.3.2

seeks to avoid new subdivision, use and development in areas subject to a 0.5% AEP event, unless there is no increased risk to life, and the subdivision, use or development is of a type that is not likely to suffer material damage in an inundation event, or is ancillary or incidental to the main development. A mitigation pathway as per Objective 11.2.1 is provided if new buildings have appropriate floor levels and hazardous substances will not be inundated. One of the methods notes that the Regional Council will provide guidance as to the appropriate floor levels to manage the adverse effects of flood events.

- 47 Any other relevant CRPS policies are discussed in my evidence in the context of responding to the s42A report.