

**BEFORE THE HEARINGS PANEL
FOR THE PROPOSED PRIVATE PLAN CHANGE TO THE WAIMAKARIRI
DISTRICT PLAN**

UNDER the Resource Management Act 1991 (RMA)

AND

IN THE MATTER of an Application by Rolleston Industrial Developments Limited for a private plan change PC31 to the Waimakariri District Plan pursuant to Part 2 of the Schedule 1 of the Resource Management Act 1991

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

21 JULY 2023

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SUMMARY STATEMENT

- 1 The Canterbury Regional Council's (**Regional Council**) submission opposed proposed Plan Change 31 to the Waimakariri District Plan (**PC31**) in its entirety and sought that PC31 be declined.
- 2 PC31 involves the proposed rezoning of 155.931 hectares of land, currently zoned rural in the operative Waimakariri District Plan to a mix of residential and business zoned land.
- 3 The Regional Council considers that PC31 does not give effect to the Canterbury Regional Policy Statement (**CRPS**). In addition, PC31 does not meet the urban growth directions of the National Policy Statement for Urban Development (**NPS-UD**).
- 4 I have reviewed the request for PC31 and supporting material, the Waimakariri District Council's Section 42A Report prepared by Mr Andrew Willis, together with the relevant statutory provisions and higher order policy documents. I have also reviewed the various technical Statements of Evidence filed on behalf of the Regional Council.
- 5 In my opinion, PC31 should be declined because:
 - a. PC31 does not give effect to the NPS-UD, and specifically the outcomes in Policy 1 and Policy 8 of the NPS-UD are not met;
 - b. PC31 does not give effect to the CRPS, in particular the following provisions:
 - (i) Objective 5.2.1 to ensure that development is located and designed to achieve a consolidated pattern of urban development;
 - (ii) Objective 6.2.1 to avoid urban development outside of existing urban areas or greenfield priority areas;
 - (iii) Objective 6.2.2 to achieve consolidation and intensification of urban areas and avoid unplanned expansion of urban areas;
 - (iv) Objective 6.2.4 to prioritise the planning of transport infrastructure so that it maximises integration with priority areas and new settlement patterns;
 - (v) Objective 6.2.6 to provide land requirements in a manner than supports the settlement pattern of Objective 6.2.2;

- (vi) Policy 5.3.1 to provide for the wider region's growth needs and sustainable development patterns;
- (vii) Policy 5.3.2 to enable development in the wider region to ensure adverse effects are avoided, remedied or mitigated.
- (viii) Policy 5.3.12 to maintain and enhance natural and physical resources contributing to Canterbury's overall rural productive economy in areas valued for primary production;
- (ix) Policy 6.3.1 to give effect to the urban form identified in Map A;
- (x) Policy 6.3.4 to provide patterns of development that where possible support increased uptake of active and public transport and provide opportunities for modal choice;
- (xi) Policy 6.3.5 to ensure the nature, timing and sequencing of new development is coordinated with infrastructure development, funding, implementation, and operation;
- (xii) Policy 6.3.12 to enable urban development in the Future Development Areas identified on Map A;
- (xiii) Policy 15.3.1 to ensure that land uses and land management practices avoid significant long-term adverse effects on soil quality and to remedy or mitigate significant soil degradation.

INTRODUCTION

- 6 My full name is Joanne Maree Mitten.
- 7 I am a Principal Planner at the Regional Council, a position I have held since October 2011.
- 8 I hold a master's degree with honours in Geography from the University of Canterbury. I have over 17 years' experience in planning.
- 9 My relevant experience includes drafting plan provisions, section 32 report writing, and preparing submissions on plan changes. I led the development of the South Coastal Canterbury Streams sub-regional chapter in the Canterbury Land and Water Regional Plan.
- 10 Prior to joining the Regional Council, I worked as the Resource Management Planner for West Coast Tai Poutini at the Department of Conservation and prior to that as a central government agency planner in the UK.
- 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, my overriding duty is to the Hearing Panel.

SCOPE OF EVIDENCE

- 13 I have prepared this planning evidence on behalf of the Regional Council, in support of the Regional Council's submission on PC31.
- 14 PC31 involves the proposed rezoning of 155.931 hectares of land, currently zoned rural in the operative Waimakariri District Plan to Residential 3, Residential 4A, Residential 8 and Business 4. The location to which PC31 relates and the specific zoning changes

proposed are set out in the Request for Change to the Waimakariri District Plan dated June 2022. I note that the Applicant has subsequently identified land previously proposed as Residential 3, to Residential 2 and the land previously proposed as Residential 8, to Residential 8.¹

- 15 In addition to the proposed rezoning, PC31 seeks to amend a number of provisions in the operative Waimakariri District Plan. The specific amendments now being pursued are set out in Attachment C to Mr Walsh's evidence for the Applicant.
- 16 My evidence addresses:
- a. The position of the Regional Council with respect to PC31;
 - b. The relevant statutory framework with a particular focus on:
 - (i) the Canterbury Regional Policy Statement (**CRPS**);
 - (ii) Our Space 2018-2048: Greater Christchurch Settlement Pattern Update Whakahāngai O Te Hōrapa Nohoanga (**Our Space 2018-2048**);
 - (iii) the National Policy Statement on Urban Development 2020 (**NPS-UD**);
 - (iv) the National Policy Statement for Highly Productive Land 2022 (**NPS-HPL**);
 - (v) the National Policy Statement for Freshwater Management 2020 (**NPSFM**);
 - (vi) the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (**NES-F**); and
 - (vii) the Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (**NESCS**);

¹ Evidence of Tim Walsh at [103].

- c. The approach to strategic growth in Greater Christchurch;
- d. The issues raised in the Regional Council's submission, including:
 - (i) The recommendations in the Section 42A Report prepared by Andrew Willis; and
 - (ii) The evidence for the Applicant in regard to those issues; and
- e. The evidence for the Regional Council.

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

- a. The Request for Change to the Waimakariri District Plan dated June 2022 and associated technical reports;
- b. The Regional Council's submission on PC31;
- c. The Section 42A Report and the following appendices to that Report:
 - (i) Appendix 3: Rural Productivity evidence prepared by Stuart Ford;
 - (ii) Appendix 4: Economic Review prepared by Rodney Yeoman and Derek Foy;
 - (iii) Appendix 5: Ohoka Evidence on Natural Hazards prepared by Christopher Bacon;
 - (iv) Appendix 6: Three Waters Servicing Evidence prepared by Colin Roxburgh;
 - (v) Appendix 7: Transport Evidence prepared by Shane Binder; and
 - (vi) Appendix 8: Urban Design and Landscape Evidence prepared by Hugh Nicholson.
- d. The Applicant's evidence, including in particular the following Statements:
 - (i) The Statement of Evidence of Mr Tim Walsh;
 - (ii) The Statement of Evidence of Mr Victor Mthamo;
 - (iii) The Statement of Evidence of Mr Ben Throssell;
 - (iv) The Statement of Evidence of Mr Mark Crooks;

- (v) The Statement of Evidence of Mr Chris Sexton;
 - (vi) The Statement of Evidence of Ms Drummond;
 - (vii) The Statement of Evidence of Mr Mark Taylor;
 - (viii) The Statement of Evidence of Mr Fuller;
 - (ix) The Statement of Evidence of Mr Milner;
 - (x) The Statement of Evidence of Mr Farrelly;
 - (xi) The Statement of Evidence of Mr Sellars;
 - (xii) The Statement of Evidence of Mr O'Neill;
 - (xiii) The Statement of Evidence of Mr Thompson;
 - (xiv) The Statement of Evidence of Mr McLeod;
 - (xv) The Statement of Evidence of Mr Chris Jones;
 - (xvi) The Statement of Evidence of Dr Wall; and
 - (xvii) The Statement of Evidence of Mr Steffens.
- e. The following Statements of Evidence prepared on behalf of the Regional Council:
- (i) The Statement of Evidence of Dr Greg Burrell;
 - (ii) The Statement of Evidence of Mr Leonard Fleete;
 - (iii) The Statement of Evidence of Mr Ben Wilkins; and
 - (iv) The Statement of Evidence of Mr Callum Margetts:

REGIONAL COUNCIL'S SUBMISSION ON PC31

- 18 The Regional Council's submission focuses on ensuring that the CRPS is given effect to, as well as the other relevant higher order policy directions, including the NPS-UD. The Regional Council opposes PC31 in its entirety, on the basis that PC31 is inconsistent with the CRPS and therefore does not give effect to it. Similarly, the Regional Council does not consider that PC31 gives effect to the NPS-UD, given that such development is out of sequence with planned infrastructure development and therefore does not result in a well-functioning urban environment that is cohesive and consolidated.

- 19 One of the key reasons behind the Regional Council's opposition to PC31 is because the land within the PC31 area has not been identified as an area where urban development is anticipated in the CRPS. The land is not a Greenfield Priority Area (**GPA**), nor is it a Future Development Area (**FDA**). There is strong higher order policy direction regarding the extent and location of land for development within Greater Christchurch, and I address the specific policy framework in this regard further below.
- 20 As the PC31 area is not identified as an area where urban development is anticipated in the CRPS, currently there is limited infrastructure in place to service any out of sequence development, particularly with respect to public transport services. This issue is addressed further in the evidence of Mr Fleete for the Regional Council.
- 21 In addition to the out of sequence development and infrastructure issues associated with PC31, the Regional Council also raised concerns in its submission in relation to the impact of PC31 on waterbodies and freshwater values (addressed in Dr Burrell's evidence), groundwater (addressed in Mr Wilkins' evidence), and flood modelling (addressed in Mr Margetts' evidence).
- 22 For completeness, I note that the Regional Council's submission also addressed the NPS-HPL, noting that as much of the land within the PC31 site is classified as Land Use Capability Class (**LUC**) 2 and LUC 3, it fits the definition of highly productive land in the NPS-HPL.
- 23 I have reviewed the evidence of Mr Walsh for the Applicant and the legal opinion regarding the applicability of the NPS-HPL to PC31, included as Attachment F to Mr Walsh's evidence. I understand that, for the reasons set out in that legal opinion, the NPS-HPL does not apply to PC31. However, to the extent that the CRPS contains policy direction regarding the maintenance and improvement of the quality of Canterbury's soils, and to safeguard the productive capacity of those soils, I consider that the productive capacity of the PC31 site is a relevant consideration, through the lens of the CRPS.

STATUTORY FRAMEWORK

Resource Management Act 1991

- 24 As PC31 involves a change to a district plan, certain provisions of the Resource Management Act 1991 (**RMA**) apply to the consideration of PC31.
- 25 Relevantly, section 75 of the RMA provides that a district plan must give effect to any national policy statement² and any regional policy statement.³ When preparing or changing a district plan, a territorial authority shall have regard to any management plans and strategies prepared under other Acts.⁴
- 26 As identified earlier in my evidence, there are a number of relevant national policy statements, as well as the CRPS provisions that must be considered.

National Policy Statements

NPS-UD

- 27 The NPS-UD came into force in August 2020, replacing the National Policy Statement 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.⁵
- 28 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.⁶

² RMA, s 75(3)(a).

³ RMA, s 75(3)(c).

⁴ RMA, s 74(2)(b)(i).

⁵ NPS-UD 2020, clause 1.3.

⁶ NPS-UD 2020, Appendix: Tier 1 and tier 2 urban environments and local authorities, Table 1.

- 29 The NPS-UD contains eight objectives and 11 policies. No objectives or policies are expressed as having priority over another.
- 30 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.
- 31 Objective 2 is that planning decisions improve housing affordability by supporting competitive land and development markets.
- 32 Objective 7 is that local authorities have robust and frequently updated information about their urban environments and use it to inform planning decisions.
- 33 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**));⁷
 - 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));⁸
 - c. Feasible and reasonably expected to be realised;⁹ and
 - d. For Tier 1 and 2 local authorities, meet the expected demand plus the appropriate competitiveness margin.¹⁰

⁷ NPS-UD 2020 Part 3, sub-part 1, clause 3.4(1).

⁸ NPS-UD 2020 Part 3, subpart 1, clause 3.4(3).

⁹ NPS-UD 2020 Part 3, subpart 5, clause 3.26.

¹⁰ NPD-UD 2020 Part 3, subpart 1, clause 3.2.

- 34 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).
- 36 Policy 6 sets out matters that 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;¹¹
 - 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.
- 37 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

¹¹ As well as that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes may detract from some amenity values but improve others, and that those changes to amenity values are not of themselves an adverse effect (Policy 6(b)).

- c. responsive, particularly in relation to proposals that would supply significant development capacity.
- 38 The obligations set out above are key mechanisms to implement Objective 6, to ensure integration with infrastructure planning and funding decisions, and to ensure that decisions that affect urban environments are strategic and provide Councils with the evidence base to be responsive.
- 39 Change 1 to Chapter 6 of the CRPS (discussed further below) is an example of this, where the housing capacity assessment (undertaken under the previous National Policy Statement on Urban Development Capacity 2016) identified a potential shortfall in development capacity. Our Space 2018-2048, discussed further below, then identified locations for future urban growth and a change to the CRPS was promulgated in accordance with that document. I address the NPS-UD, including Policy 8, further below.

NPS-HPL

- 40 The NPS-HPL was gazetted on 19 September 2022 and came into effect on 17 October 2022. It contains one objective and nine policies.
- 41 The NPS-HPL requires the mapping of highly productive land (**HPL**).¹² HPL includes land that is general rural zone or rural production zone and LUC 1, 2 or 3 (as identified in the New Zealand Land Resource Inventory). Land identified for future urban development must not be mapped as HPL.¹³
- 42 The mapping must be notified (for inclusion in a regional policy statement) by regional councils by October 2025.¹⁴ Until then, territorial authorities must still apply the policies of the NPS-HPL to land that has characteristics of HPL.¹⁵
- 43 In general, the NPS-HPL includes policies that avoid the urban rezoning, rezoning and development, and subdivision of highly productive land.

¹² NPS-HPL, Policy 3 and clause 3.4(1).

¹³ NPS-HPL, Clause 3.4(2).

¹⁴ NPS-HPL, Clause 3.5(1).

¹⁵ NPS-HPL, Clause 3.5(7).

Policies 5, 6 and 7 state that urban zoning, rezoning and development and subdivision of HPL must be “avoided”. Policy 8 states that HPL is protected from inappropriate use and development. Clause 3.7 states rezoning of HPL to rural lifestyle must be avoided.

- 44 However, there are exceptions. Clause 3.6 states Tier 1 and 2 Territorial Authorities (including Waimakariri District Council) may allow urban rezoning of HPL only if (in summary):
- a. Rezoning is required to provide sufficient development capacity to give effect to the NPS-UD; and
 - b. There are no other reasonably practicable and feasible options for providing at least sufficient development capacity within the same locality and market while achieving a well-functioning urban environment; and
 - c. The benefits of rezoning outweigh the long-term costs associated with the loss of HPL for land-based primary production (including both tangible and intangible values).
- 45 For the purposes of the NPS-HPL, the Regional Council and Waimakariri District Council are defined as Tier 1 local authorities.
- 46 To demonstrate that there are no other options to developing on HPL, councils must consider greater intensification in existing urban areas, rezoning of land that is not HPL, and rezoning HPL that has a lower productive capacity.¹⁶
- 47 Clause 3.8 states subdivision of HPL must be avoided unless:
- a. the proposed lots will retain overall productive capacity over the long term;
 - b. subdivision is on specified Māori land; or
 - c. subdivision is for infrastructure or defence facilities operated by New Zealand Defence Force, and there is a functional or operational need for the subdivision.

¹⁶

Clause 3.6(2).

- 48 Clause 3.9 states inappropriate use and development of HPL (i.e. use that is not land-based primary production) is to be avoided unless at least one of the criteria listed in clause 3.9(2) are met.
- 49 Overall, in my view the policies in the NPS-HPL are very directive towards avoiding the urban rezoning of HPL and protecting it from inappropriate subdivision and use. The NPS-HPL ensures that there are multiple criteria to go through before rezoning can be considered, and a requirement to consider other options and areas for development rather than land classed as HPL.
- 50 Finally, there is an important link between the NPS-HPL and NPS-UD as the NPS-UD does provide for out of sequence and unplanned development. However, the direction of the NPS-HPL indicates that any out of sequence development on HPL can only occur under very strict criteria.

NPSFM

- 51 The NPSFM requires that the loss of extent of natural inland wetlands is avoided, and their values protected, and their restoration is promoted.¹⁷ Regional councils are required to amend their plans to include the policy direction articulated in clause 3.22 of the NPSFM. The policy has been inserted in the Canterbury Land and Water Regional Plan (**LWRP**).
- 52 The provisions of the NPSFM and the LWRP policy will be relevant to any future resource consent process for the PC31 site, should PC31 be approved (noting Dr Burrell's evidence regarding the extent of wetlands across the PC31 area).

National Environmental Standards

NES-F

- 53 The NES-F contains a number of standards that apply to activities that relate to freshwater. Relevant to PC31, and noting Dr Burrell's evidence regarding the extent of wetlands across the PC31 area, the NES-F

¹⁷ See clause 3.22 of the NPSFM 2020.

contains regulations in respect of earthworks within certain setbacks from natural inland wetlands.¹⁸

- 54 Should PC31 be approved, the NES-F regulations will need to be complied with and resource consent obtained, if required.

NESCS

- 55 The NESCS was gazetted in 2011 and incorporates a number of contaminated land management guidelines, methodology for deriving standards for contaminants in soil to protect human health, and hazardous activities and industries list (**HAIL**).
- 56 The NESCS contains methods, standards and provides a range of different activity types, classing specific activities as permitted, controlled, restricted discretionary and discretionary.
- 57 The NESCS ensures that that land affected by contaminants in soil is appropriately identified and assessed before it is developed. If necessary, land may need to be remediated or the contaminants contained so that the land is safe for human use.
- 58 In order to identify and monitor contaminated land, Regional Councils are to maintain a database; this database is the Listed Land Use Register (**LLUR**) at Canterbury Regional Council. Territorial authorities in Canterbury use this database to help identify their HAIL sites.

Canterbury Regional Policy Statement

- 59 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

¹⁸ See Regulations 38, 39, 52 and 53.

Christchurch. The PC31 area is within the part of the District that is within Greater Christchurch.

- 60 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.
- 61 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.
- 62 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.
- 63 In summary, Change 1 amended Chapter 6 and Map A of the CRPS to identify FDAs within the existing Projected Infrastructure Boundary (**PIB**) 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.¹⁹ Change 1 was made operative on 28 July 2021.
- 64 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

¹⁹

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.²⁰ Urban development outside of these identified areas is to be avoided, unless expressly provided for in the CRPS.²¹

- 65 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.
- 66 Other key relevant provisions in the CRPS include:
- a. Objective 6.2.1a, which 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. The Housing Bottom Lines in Table 6.1 represent the amount of development capacity that is at least sufficient to meet expected housing demand in the Greater Christchurch urban environment over the specified period, inclusive of a competitiveness margin.
 - b. Objective 6.2.4, which prioritises the planning of transport infrastructure so that it maximises integration with priority areas and new settlement patterns. Policies 6.3.4 and 6.3.5 support this objective, and others, in respect of transport effectiveness and the integration of land use and infrastructure.
 - c. Objectives 6.2.5 and 6.2.6, and Policies 6.3.1 and 6.3.6, which relate to business land and commercial development, establish a hierarchy of commercial centres and seek that the existing network of centres is supported and maintained.
 - d. Policies 5.3.2 and 5.3.12, which are relevant to the management of versatile soils in the wider region (I explain further below why I consider that these apply to the PC31 site).

²⁰ Objective 6.2.2

²¹ Objective 6.2.1 and Policy 6.3.1.

- 67 I discuss these CRPS provisions further where relevant in the context of the section 42A officer recommendations and the Applicant's evidence.

STRATEGIC GROWTH PLANNING IN GREATER CHRISTCHURCH

- 68 Prior to the introduction of the National Policy Statement on Urban Development Capacity 2016 and the NPS-UD, the Regional Council undertook strategic growth planning for the Greater Christchurch area, much of which is reflected in the provisions of the CRPS discussed above.
- 69 The Greater Christchurch Partnership is a voluntary coalition of local government, mana whenua and government agencies working collaboratively to address strategic challenges and opportunities for Greater Christchurch.²²
- 70 The Regional Council has worked collaboratively as part of the Greater Christchurch Partnership for more than a decade on strategic settlement planning and urban growth and development issues in Greater Christchurch, including through the development of the Urban Development Strategy (**UDS**) 2007 (updated in 2016) and Our Space 2018-2048. Our Space 2018-2048 is a strategy document prepared pursuant to the Local Government Act 2002 and is therefore a relevant consideration for PC31 in accordance with section 74 of the RMA.
- 71 Our Space 2018-2048 updated the settlement pattern originally set out in the 2007 UDS and which underpins the planning framework outlined in Chapter 6 to the CRPS.
- 72 Our Space 2018-2048 identified that, while most of the growth expected to occur in Greater Christchurch to 2048 could be accommodated within existing urban environments, there was a need to identify additional greenfield areas for housing (referred to as Future Development Areas (**FDA**)) in Rolleston, Rangiora and Kaiapoi, to help address projected housing capacity shortfalls for Selwyn and Waimakariri Districts over the medium to long term.

22

The Partnership consists of Environment Canterbury, mana whenua, Christchurch City Council, Selwyn District Council, Waimakariri District Council, Te Whatu Ora – Waitaha, and Waka Kotahi NZ Transport Agency.

- 73 Our Space included an action to progress a change to Chapter 6 of the CRPS at the earliest opportunity. This would enable Selwyn and Waimakariri District Councils to identify and / or rezone land within these areas as part of their district plan processes, to give effect to the requirement in the 2016 NPS-UDC²³ to ensure sufficient development capacity.
- 74 The FDAs identified through Our Space are located within the existing Projected Infrastructure Boundary (**PIB**) on Map A (of the CRPS), and are consistent with both the objectives and policies of the CRPS, and the long-term growth strategy set out in the UDS 2007 and 2016 update.
- 75 By directing future housing growth to development capacity already signalled by the PIB, Our Space 2018-2048 and Change 1 to the CRPS built on the work and extensive community input undertaken in developing the UDS and recovery processes that led to Chapter 6 of the CRPS, as well as subsequent growth and infrastructure planning undertaken by the district councils.
- 76 In July 2021 the Greater Christchurch Partnership published its updated Housing Capacity Assessment (**HCA**), in accordance with the requirements of the NPS-UD.²⁴ The 2021 HCA provides an assessment of expected housing demand and the sufficiency of development capacity, to 2051. Table 3 within the HCA report shows that, with the inclusion of the FDAs identified through Our Space (and subsequently Change 1 to the CRPS), there is sufficient development capacity (including the required competitiveness margin) within Selwyn, Waimakariri and Christchurch City, to meet expected housing demand over the medium term (i.e., 2021 to 2031).
- 77 The NPS-UD requires plan-enabled capacity to be zoned in relation to the medium term and identified for future urban use in an FDS in relation to the long term. A spatial planning exercise has been initiated by the Greater Christchurch Partnership in conjunction with delivery of the

²³ Our Space 2018-2048 was prepared as an FDS for Greater Christchurch under the NPS-UDC. However, Change 1 to Chapter 6 of the CRPS was progressed in accordance with the provisions of the NPS-UD.

²⁴ Greater Christchurch Housing Development Capacity Assessment, 30 July 2021.

Greater Christchurch 2050 Strategic Framework and the establishment of an Urban Growth Partnership with the Crown.

- 78 It is my understanding that the Greater Christchurch Spatial Plan will fulfil the FDS requirements under the NPS-UD. In this regard, it will provide the opportunity to comprehensively and strategically consider locations for future growth, including identifying the broad locations in which development capacity will be provided over the long term. The Spatial Plan is expected to be heard in 2023, to inform the 2024 Long Term Plans as required by the NPS-UD.
- 79 This work will inform the review of the updated CRPS, which is currently scheduled in the Long-Term-Plan to be notified in 2024.

ISSUES OF CONCERN TO THE REGIONAL COUNCIL

- 80 At the outset, I note that I support the recommendation of Mr Willis to decline PC31 and I largely agree with the reasoning set out in the Section 42A Report in support of the recommendation to decline PC31.
- 81 In this section of my evidence, I address the particular issues of concern for the Regional Council and the relevant evidence prepared by the Applicant, the Regional Council and in the Section 42A Report on these issues.

Strategic Growth - urban form and development capacity

- 82 As noted earlier in my evidence, the PC31 site is not within an existing urban area, a GPA, or an FDA identified in Map A of the CRPS.
- 83 As a result, in my view, PC31 does not give effect to Objective 6.2.1(3) of the CRPS, which seeks to avoid urban development outside of existing urban areas or greenfield priority areas for development. Nor does PC31 give effect to Objective 6.2.2 of the CRPS, which seeks to achieve consolidation and intensification of urban areas, and avoids unplanned expansion of urban areas, and Policy 6.3.1(4) of the CRPS which seeks to ensure new urban activities only occur within existing urban areas or identified greenfield priority areas shown on Map A.
- 84 Further, PC31 does not give effect to Objective 6.2.6 of the CRPS which seeks to identify and provide for Greater Christchurch's land requirements for the recovery and growth of business activities in a

manner that supports the settlement pattern brought about by Objective 6.2.2.

- 85 I similarly do not consider that PC31 gives effect to the NPS-UD. I note that Mr Willis has raised a query regarding whether Ohoka falls within the definition of urban environment and has highlighted a lack of evidence on this issue. For the purposes of my evidence, I have treated Ohoka as being within the urban environment.
- 86 Central to the NPS-UD is the achievement of well-functioning urban environments (Objective 1 and Policy 1). Policy 1 includes a set of six minimum outcomes for local authorities to consider when making planning decisions to contribute to a well-functioning environment.
- 87 Given the strong directions within the CRPS (and the fact that the PC31 site falls outside of the existing urban area, a GPS and an FDA) in my opinion development on this site is not anticipated. Policy 8 of the NPS-UD directs local authorities to be responsive to plan changes that would add *significantly* to development capacity and contribute to well-functioning environments, even if this is unanticipated by current planning documents, or out of sequence with planned land release. Clause 3.8 of the NPS-UD provide further direction in relation to this and directs local authorities to have particular regard to the development capacity provided by the plan change if that development capacity:
- a. Would contribute to a well-functioning urban environment; and
 - b. Is well-connected along transport corridors; and
 - c. Meets the criteria set under subclause (3).
- 88 Clause 3.8(3) provides that every regional council must include criteria in its regional policy statement for determining what plan changes will be treated, for the purpose of implementing Policy 8, as adding significantly to development capacity. As is noted by Mr Willis, the Regional Council has not yet included criteria in the CRPS in relation to this and I agree that in the absence of criteria it is necessary to consider this against the relevant objectives and policies of the NPS-UD.
- 89 To assist local authorities, the Ministry for the Environment released guidance to help assess the significance of a proposal, including how the proposed development provides for an identified demand and its yield relative to identified future needs.

- 90 Dealing first with the question of whether PC31 adds significantly to development capacity, Our Space 2018-2048 established that there is sufficient development capacity in Greater Christchurch for the short, medium and long term within the FDAs and existing GPAs. I have also considered the capacity assessment undertaken by Mr Foy for the Waimakariri District Council, which concludes that there is sufficient supply in Waimakariri to meet expected demands, there is more than the required NPS-UD competitive margin, and in the long term there is estimated to be a capacity of just under 14,450, which is sufficient to meet the demand.²⁵ I prefer these assessments over the spatial analysis prepared by Mr Sexton for the Applicant.
- 91 I also note that the Housing Bottom Lines that were inserted into the CRPS in Table 6.1 indicate the development capacity enabled for Waimakariri and Greater Christchurch is sufficient over the medium and long term.
- 92 Finally in terms of development capacity, I also agree with Mr Willis, that in order to significantly contribute to development capacity, the lots also need to be serviced with development infrastructure (in accordance with the definition of ‘development capacity’ and ‘development infrastructure’). As is addressed further below, it is unclear whether the necessary stormwater provision can be provided.
- 93 For these reasons, I do not agree with the Applicant’s assessment that the PC31 land is required to meet a shortfall in housing and that it will add significantly to development capacity. I agree with Mr Willis’ conclusions that *“it has not been demonstrated that the additional capacity proposed through RCP031 is necessary in the medium or long term, nor if it can be provided given the servicing uncertainties, and based on the above analysis, conclude that the proposal will not add significantly to development capacity.”*
- 94 As is clear from Policy 8 of the NPS-UD and its corresponding clause 3.8(2), proposals also need to contribute to a well-functioning urban environment (the minimum outcomes set out in Policy 1).

²⁵

- 95 One of the criteria for well-functioning urban environments is those that support a reduction in greenhouse gas (**GHG**) emissions. Further, a well-functioning environment has good accessibility including by public or active transport. Connection to transport corridors is a matter also relevant under clause 3.8 (b). I address the specific public transport matters in the following section of my evidence.
- 96 Overall, I do not agree with Mr Walsh's assessment that PC31 is consistent with the NPS-UD and the CRPS. Mr Willis has undertaken a comprehensive planning assessment of PC31 in relation to both the NPS-UD and the CRPS and I agree with his assessments.

Public Transport

- 97 As discussed above, Policy 1 to the NPS-UD provides that a well-functioning environment has good accessibility, including by public or active transport. Objective 6.2.4 of the CRPS prioritises the planning of transport infrastructure so that it maximises integration with priority areas and new settlement patterns. Policies 6.3.4 and 6.3.5 support this objective, and others, in respect of transport effectiveness and the integration of land use and infrastructure. Urban environment is defined in the NPS-UD as meaning any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that: (a) is, or is intended to be, predominantly urban in character; and (b) is, or is intended to be, part of a housing and labour market of at least 10,000 people.
- 98 Overall, the Regional Council's submission identified that PC31 does not meet any of the objectives and policies set out above and does not meet the wider transport network and land use integration outcomes sought.
- 99 In relation to the non-motorised transport network, Mr Willis draws on Mr Binder's and Mr Nicholson's evidence. Mr Nicholson concludes that *"given the limited shopping, educational and employment opportunities in Ohoka, the distance from larger centres, and the lack of alternative transport options, the potential residents of the plan change area would be largely dependent on private cars on a daily basis"*²⁶. In his S42A

report, Mr Willis accepts this advice and considers that the site has a low level of accessibility.

- 100 In relation to public transport, Mr Binder is in agreeance with the applicant that the Regional Council does not provide public transport services in Ohoka and that there are no future plans for services to the area. Mr Binder states that any future services to the proposed plan change area would have to be a dedicated service. In his evidence, Mr Binder also highlights that the 9km distance to the park and ride service in Kaiapoi means that walking and cycling does not provide a realistic connection to public transport. As a result of the lack of public transport almost all day-to-day trips will require vehicle travel.
- 101 Overall, Mr Willis concluded that PC31 will not contribute to a well-functioning urban environment.²⁷ In terms of Mr Binder's evidence, Mr Willis accepts the following:
- a. That there is no existing or planned public transport service;
 - b. That if future residents were to use the Park and Ride they Kaiapoi, they would need to drive to get to it.
 - c. The location of the proposed site and lack of active transport facilities results in the site having a low level of accessibility.
 - d. Vehicle kilometres travelled and greenhouse gases are likely to increase with the reliance on cars²⁸.
- 102 Mr Willis provides a statutory assessment of the NPS-UD and the CRPS in relation to transport matters. Specifically in terms of Policy 1(c) of the NPS-UD he sets out that a well-functioning urban environment as a minimum must have good accessibility, including by way of public transport. He notes in his assessment that PC31 does not meet Policy 1(c) as there are currently no public transport services to the site, nor are any planned, the distance to the Park and Ride scheme is 9km and therefore not achievable as a commute. Mr Willis also refers to Mr Binder's evidence in his statutory evaluation, noting the lack of non-

²⁷ Section 42A Report of Mr Willis, para 7.3.38

²⁸ Section 42A Report of Mr Willis, para. 6.8.26

motorised connections and the distance required to travel to day-to-day activities.

- 103 In relation to his statutory assessment of the transport provisions in the CRPS, Mr Willis concludes that the PC31 proposal does not adequately give effect to CRPS Objectives 6.2.1(9) and (11) and 6.2.4, and Policies 6.3.4 and 6.3.5. These objectives and policies, among others, seek the promotion of public transport and to reduce the dependency on private vehicles, something that in Mr Willis' view is not met through PC31.
- 104 I agree with Mr Willis's recommendations in his Section 42A Report and share his view that PC31 does not meet the requirements set out in the NPS-UD and CRPS.
- 105 Mr Walsh has provided overall transport planning evidence on behalf of the applicant and has relied on the evidence of Mr Fuller (traffic engineer), Mr Milner (passenger transport), Mr Falconer and Ms Lauenstein (urban design), Dr Wall (education) and Mr Farrelly (GHG emissions).
- 106 In his evidence, Mr Walsh (and the applicant) recognises that there is no current or future public transport planned for Ohoka. However, it is Mr Walsh's view that the preferred public transport option of an on-demand bus service, as set out in Mr Miller's evidence would provide a public transport solution to support the proposed development. He sets out that the applicant is able to help fund the trial of such a service.
- 107 Mr Walsh also considers the impact of PC31 on vehicle kilometres travelled. Overall, he suggests that PC31 may contribute to an increase in VKT. No technical evidence is provided.
- 108 Mr Walsh refers to Mr Farrelly's evidence concerning transport related Greenhouse gas (GHG) emissions and accepts the various mitigating factors such as public transport options, ride sharing, electric vehicles, and working from home and travel behaviour. Mr Wash concludes that PC31 supports the reduction of transport related GHG emissions.
- 109 As part of his statutory assessment in relation to public transport, Mr Walsh focuses on the NPS-UD and the CRPS. Mr Walsh sets out what in his view are the key considerations in relation to public transport and the provisions of the NPS-UD. These are:

- a. Will the proposal contribute to a well-functioning urban environment (Objective 1, Policy 1, Policy 6, Clause 3.8, Clause 3.11); and
 - b. Is it well-connected along transport corridors (Clause 3.8).
- 110 Concerning whether the proposed development will contribute to a well-functioning urban environment Mr Walsh sets out that in his view PC31 would not necessarily need to satisfy all the Policy 1 criteria, rather that it would contribute to a well-functioning urban environment. He states that Ohoka is part of Greater Christchurch and that because of this he assumes that Greater Christchurch is a well-functioning urban environment. He considers that Policy 1 (c) is met in that in PC31 provides good accessibility for all people including by way of public or active transport and that the on-demand option as set out above by Mr Fuller provides for this.
- 111 Mr Walsh also considers that PC31 meets NPS-UD Policy 1(e) to support reductions in GHG emissions, among other things through the Applicant taking steps to support a reduction in emissions arising from the development and transportation options.
- 112 In relation to NPS-UD Policy 8, clause 3.8, Mr Walsh considers that PC31 will be well-connected along transport corridors. He states the PC31 is close to State Highway 1 accessed by collector and arterial roads. He does not assess PC31 in relation to clause 3.11 or Policy 6.4
- 113 Mr Walsh did not provide a comprehensive planning assessment of the CRPS. Rather, he stated that the CRPS and District Plans contain a number of transport and energy related objectives and policies. He does highlight that PC31 is not fully consistent with transport provisions, however he believes that the proposal achieves an acceptable level of consistency with provisions.
- 114 I do not agree with Mr Walsh's assessment in this regard. I do not consider that PC31 meets the necessary requirements as set out in the NPS-UD and CRPS.
- 115 I have read Mr Willis's Section 42A Report, Mr Binder's and Mr Nicholson's evidence for Waimakariri District Council. I have also read Mr Walsh's, Mr Fuller's, Mr Milner's and Mr Farrelly's evidence for the

Applicant. Mr Fleete has provided evidence from a public transport perspective, and I rely on his evidence for the foundation of my view.

- 116 In relation to Mr Walsh's evidence, I do not agree that an on-demand bus service would provide the public transport solution that he states it would. I refer to Mr Fleete's evidence on this and agree with his view that any on-demand vehicle would be unavailable while it was transporting other passengers to and from these destinations, journeys of 30 minutes or more. If the vehicle was 'demanded' in Ohoka it may be 30 minutes away or more in west Rangiora or Kaiapoi or travelling between. In Mr Fleet's view, this would necessitate either more vehicles (and drivers, and cost) or a very forgiving customer-base – less on-demand than 'on availability'.
- 117 In relation to Vehicle Kilometre's Travelled (**VKT**), I also do not agree with Mr Walsh's statement that VKT *may* increase with PC31. I believe that VKT *will* increase as the proposed development and will support and result in an increase in motor vehicles. This is due to the lack of public transport to the proposed site, and the distance to the nearest park and ride 9km away, along with the lack of employment opportunities with Ohoka itself.
- 118 In his evidence, Mr Walsh concluded that PC31 supports the reduction of transport related GHG emissions. Although the Regional Council, has not provided any specific GHG evidence, it is my view that an increase in vehicle use will result from the development of 850 houses and the associated requirements of getting to work, school and day to day activities.

Use of highly productive land

- 119 Policy 5.3.12 of the CRPS requires that the maintenance and enhancement of Canterbury's natural and physical resources that contribute to Canterbury's overall rural productive economy in areas that are valued for existing or future primary production by avoiding development and/or fragmentation that forecloses the ability to make appropriate use of that land for primary production. Policy 15.3.1 of
- 120 the CRPS further seeks to ensure that land uses avoid long term adverse effects on soil quality.

- 121 In its submission, the Regional Council concluded that PC31 would further diminish any identified highly productive land in Canterbury.
- 122 In his Section 42A Report, based on Mr Ford's and Mr Yeoman's evidence, Mr Willis concludes that "the current use of the site is viable for rural primary production activity, consistent with the many submitters who have stated this and that there will be a financial impact from the loss of the productive farm".²⁹
- 123 As part of the Applicant's evidence, Mr Walsh has provided a planning assessment in relation to the use of primary productive land for residential development. His view is that the NPS-HPL does not apply to the proposed development site and as set out earlier in my evidence, I agree with the legal opinion appended to Mr Walsh's evidence.
- 124 Mr Walsh does however, go on to acknowledge the other statutory policy documents which seek the protection of versatile soils. He refers to the CRPS and Objective 4.1.1 and Policy 4.1.1.6 of the operative Waimakariri District Plan. He also sets out that Objective SD-O4 of the proposed Waimakariri District Plan (**pWDP**) seeks that rural land is managed to ensure that it remains available for productive rural activities and states that PC31 is inconsistent with this provision. He however does not consider that the proposal is contrary to the provisions.
- 125 Overall, Mr Walsh's view is that the benefit of the development capacity outweighs the costs of losing productive land.
- 126 While I agree with the legal opinion appended to Mr Walsh's evidence, it is my understanding that the intent of the NPS-HPL was to protect productive land from subdivision development. The notification of the pWDP and the use of the rural lifestyle zone within the pWDP pre-dated the introduction of the NPS-HPL and it is therefore unclear as to whether the PC31 land would have been zoned as rural lifestyle, had the implications of doing so under the NPS-HPL been apparent at that time.
- 127 Regardless, the provisions of the CRPS in relation to versatile soils are applicable, and ultimately PC31 must give effect to the CRPS.

- 128 Mr Walsh's planning assessment has focussed more on the district plan provisions in relation to versatile soils, rather than on the provisions in the CRPS. However, Chapter 5 of the CRPS provides for land-use and infrastructure and deals specifically with the protection of versatile soils.
- 129 In my view, the CRPS is directive in relation to the protection of versatile soils. Policies 5.3.2 and 5.3.12 are relevant to the management of versatile soils in the wider region. Policy 5.3.2 seeks to enable development which ensures that adverse effects are avoided, remedied or mitigated, including where they would compromise, among other things, the productivity of the region's soil resources. Policy 5.3.12 seeks to maintain and enhance natural and physical resources contributing to Canterbury's overall rural productive economy in areas valued for existing or future primary production by avoiding development, and/or fragmentation which forecloses the ability to make appropriate use of that land for primary production.
- 130 As set out in the introduction to Chapter 5, the issues and objectives within Chapter 5 of the CRPS apply to all of the Canterbury region, however many resource management issues associated with urban and rural-residential development tend to be concentrated in the Greater Christchurch area. Within Chapter 5, the issues, objectives and policies that relate to the Canterbury region inclusive of Greater Christchurch are noted as 'Entire Region' and those provisions that are not relevant to Greater Christchurch are noted as 'Wider Region'.
- 131 The PC31 area is not in the Wider Region as defined in the CRPS, rather, the PC31 area falls within Greater Christchurch, as identified in Map A. While Policies 5.3.2 and 5.3.12 apply to the 'Wider Region', there are no policies directly referring to versatile soils in Chapter 6 of the CRPS. This is because development within Greater Christchurch is signalled in Map A, specifically within GPAs and FDAs, identifying the location and extent of urban development to support recovery, rebuilding and planning for future growth and infrastructure delivery.
- 132 In my view, Chapter 6 did not require a policy regarding versatile soils as it was never intended that development would occur within Greater Christchurch outside of these mapped GPA and FDA areas.
- 133 In my view, PC31 is inconsistent with the provisions of the District Plan and the pWDP as set out above, given that some 156 hectares of

productive land, once rezoned and ultimately subdivided, would no longer be available for primary production. It is also my view that PC31 is inconsistent with the CRPS policies that set out how versatile soils are to be protected from non-primary productive uses. Chapter 15 of the CRPS promotes the quality, life-supporting capacity and/or mauri of Canterbury's soils and their capability of providing for the community. Policy 15.3.1 that applies throughout the region, seeks to avoid, remedy or mitigate soil degradation and to promote land use practices that maintain and improve soil quality. I don't believe that PC31 meets this requirement.

Land contamination

- 134 In its submission, the Regional Council focussed on two main issues with contaminated land on the PC31 site:
 - a. The first issue is in relation to the identification of potential contaminated areas within the proposed development site.
 - b. The second is in relation to the management of discharge of construction phase stormwater where a contaminant may enter surface or groundwater.
- 135 Regarding contaminated land, Policy 17.3.1 of the CRPS seeks to identify sites historically or presently used for an activity that could have or has resulted in contamination. Policy 17.3.2 requires that a site investigation be undertaken on potentially contaminated land and the Applicant's Preliminary Site Investigation (**PSI**) identified several actual and potential HAIL activities. If PC31 is approved, a more detailed PSI will need to be undertaken before any development of the site occurs to provide an adequate overview of the potential contamination issues present in the area, and how they may be managed.
- 136 Regarding the discharge of construction phase stormwater, Rule 5.94 of the LWRP would be relevant insofar as any discharge of construction phase stormwater that may result in a contaminant entering surface or groundwater.
- 137 Mr Willis has identified in his Section 42A Report that in his view, any contamination issues can be adequately managed at the time of

subdivision and that he considers there are no contamination issues that would obstruct the plan change.³⁰

- 138 In his evidence, Mr Walsh states that he agrees with Mr Willis and that contamination issues can be managed through the consenting process.
- 139 I note that in response to the Regional Council's submission, the Applicant prepared further evidence on this issue. Mr Crooks states that a PSI was conducted and that potential contamination has been identified³¹. He states that some areas of the site may require some significant remediation, but the remainder of the site has low potential contamination³².
- 140 The Regional Council's submission also highlighted concerns regarding lead and asbestos contamination and that over time, infilling of surface water courses was likely to have occurred. In response to this, Mr Crooks states that the presence of any contamination will be part of a detailed site investigation prior to development³³. He considers that neither potential sources of contamination are a significant risk³⁴.
- 141 Overall, Mr Crooks considers that PC31 is low risk in terms of the potentially contaminating activities identified. If it is identified that remediation is required, Regional Rules 5.93 and 5.94 of the LWRP will be satisfied.
- 142 Having considered the evidence of the Applicant and of Mr Willis, I am satisfied that any contamination issues on-site could be adequately managed at the consenting and subdivision stage.
- 143 In my view, PC31 is consistent with Policy 17.3.1 of the CRPS that seeks to identify all potentially contaminated land, and Policy 17.3.2 that seeks to manage development of, or discharge from contaminated land. I also agree with the Applicant and Mr Willis that the NESCS would need to be addressed if PC31 is approved, and resource consents are sought for any future development.

³⁰ Section 42A Report of Mr Willis, para. 6.5.15

³¹ Evidence of Mr Crooks, para. 7

³² Evidence of Mr Crooks, para. 7

³³ Evidence of Mr Crooks, para. 13

³⁴ Evidence of Mr Crooks, para.11

Natural hazards - flooding

- 144 In its submission the Regional Council stated that CRPS Policy 11.3.2 sets out that development should be avoided in areas subject to inundation in a 200-year average recurrence level (**ARI**) flood event unless a range of conditions are met. Including the requirement for new buildings to have a floor level above the 200-year ARI design flood level.
- 145 The Regional Council is also concerned that an increase in impervious areas, barriers to flow and less flood plain storage will cause changes to patterns of flooding above or below the development. The submission notes that the Applicant proposes to address this through secondary flow paths, swales and stormwater retention ponds. Even so, the Regional Council considers that a more detailed assessment will be required to confirm that the proposal will not exacerbate flooding in the vicinity of the subdivision.
- 146 The Regional Council also highlighted concerns in its submission regarding downstream flooding effects based on modelling provided by the applicant. The flood modelling by the applicant does not account for either infiltration or spring fed surface water contributions. Given the significance of groundwater flow and springs at this location, this needs to be further factored into any assessment of flooding. The current flooding assessment within the application considers large flood events, however it appears not to consider the impact of the development on small but still significant events such as a mean annual event. As this development could potentially cause significant changes to drainage patterns, a range of events need to be considered.
- 147 In his Section 42A Report, Mr Willis acknowledged the concerns raised by submitters regarding off-site flooding effects associated with PC31 as a result of displacement of flood waters across the floodplain.
- 148 Mr Willis refers to Mr Bacon's evidence regarding the flood risk resulting from the proposed development and states that while the potential flood risk within the site has been considered by the Applicant, the Applicant has not proposed any rules to mitigate this risk³⁵.

- 149 Mr Bacon also considers that the Applicant appropriately considered the potential increase in offsite flooding and identified an increase in flooding at several offsite dwellings. As a result of this, Mr Bacon considers that a further assessment is required³⁶.
- 150 Overall, Mr Willis concludes that PC31 does not adequately provide for the management of offsite flood risk³⁷.
- 151 In his evidence, Mr Walsh concludes that the proposed development site is at some risk of flooding³⁸. However, he states that the modelling carried out by Mr Throssell in response to Mr Willis' and Mr Bacon's concerns has shown that any flooding beyond the PC31 site would not be worsened and that any mitigations could be built into the subdivision design³⁹.
- 152 Overall, Mr Walsh concludes that through Mr Throssell's modelling, any downstream and offsite effects will be minor⁴⁰. Mr Walsh considers that the proposed development is consistent with the natural hazards provision in the CRPS and district plans⁴¹.
- 153 I have read Mr Walsh's, Mr Throssell's, Mr Willis' and Mr Bacon's evidence. I have also read the evidence of Mr Margetts for the Regional Council.
- 154 In his evidence, Mr Margetts sets out that he considers the updated modelling provided by Mr Throssell shows that there are only minor and acceptable increases in offsite flooding as a result of the proposed development. He also states that appropriate mitigations are available to reduce the risk off offsite flooding.
- 155 Through the provision of additional modelling as requested by Mr Willis in his Section 42A Report, I agree with Mr Walsh, Mr Throssell and Mr Margetts that the offsite flood risk from the proposed development site is minimal and can be managed through appropriate mitigations.

³⁶ Section 42A Report of Mr Willis, para. 6.5.25

³⁷ Section 42A Report of Mr Willis, para. 6.5.26

³⁸ Evidence of Mr Walsh, para. 267.1

³⁹ Evidence of Mr Walsh, para. 112

⁴⁰ Evidence of Mr Walsh, para., 255

⁴¹ Evidence of Mr Walsh, para. 256

- 156 Given this, I also agree that PC31 is consistent with the natural hazard provisions set out in the CRPS. Specifically, Policy 11.3.2 sets out that development should be avoided in areas subject to inundation in a 200 year occurrence level flood event. Mr Throssell has provided appropriate modelling to show that proposed development site would meet this.

Groundwater

- 157 Mr Wilkin's evidence outlines is that groundwater levels are very high in the PC31 area and that the stormwater infrastructure needed to support the subdivision is likely to intercept groundwater. His evidence also outlines that because the groundwater is not discharged back to the same aquifer the interception of groundwater is treated as a section 14 'take and use' of water.
- 158 The PC31 area is within the Eyre groundwater allocation zone, which I understand is overallocated.
- 159 Under Rule 5.128 of the LWRP, any new take and use of groundwater is a restricted discretionary activity if the take, in addition to all existing consent takes, does not exceed the groundwater allocation limits for the relevant groundwater allocation zone. There is an equivalent rule in the Waimakariri sub-region (Rule 8.5.14). Where the new take and use will result in the allocation limits exceeding the relevant ground water allocation zone limit, the take and use of water is a prohibited activity.
- 160 While previously there was sometimes an ability to grant a new standalone use permit to enable an existing permit to be used for a new purpose, I understand, following the Court of Appeal's decision in *Aotearoa Water Action v Canterbury Regional Council*, that all applications to "take and use" water have to be processed together and accordingly, there is no consent pathway to obtain "new" water in the Eyre groundwater allocation zone, including to take and use water where the water is being intercepted in stormwater infrastructure. For completeness I note that this consenting limitation does not apply to applications to take and use water for community water supply which fall within rule 5.115 of the LWRP.
- 161 While I acknowledge that these consenting issues are not directly relevant to PC31, given directions in the RPS (for example Policy 6.3.5)

based on the Applicant's evidence it remains unclear how the stormwater servicing of the subdivision will be able to be accommodated, and therefore whether PC31 gives effect to the CRPS.

Aquatic ecology

- 162 Chapter 7 of the CRPS contains a suite of provisions that seek to enhance and/or protect freshwater environments and their biodiversity. Issue 7.1.2 sets out that ecosystem processes can be affected by such things as discharging contaminants into water or by land uses which drain or modify waterbodies or their margins as a result of development or intensification of land uses and the associated discharge or runoff of contaminants.
- 163 The ecological assessment provided by the Applicant focuses predominantly on the PC31 area and not the greater context of the upstream and downstream areas of values that feed into this area. The Regional Council's submission raised concerns regarding the impact of PC31 on the historic wetland area with many seasonal and permanent springs that support a large ecosystem.
- 164 It is my understanding that the PC31 site was not identified for urban development through the Our Space process is because of the wetland nature, high spring density, and high freshwater values that would be compromised by urban development in this location.
- 165 In his S42A report, Mr Willis identifies that he is comfortable with the applicant's ecology and S32A assessment. Mr Willis agrees with Director-General of Conservation's submission that the waterways would be considered a significant habitat of indigenous species in the CRPS and that effects can manifest downstream of the site area.
- 166 Mr Willis agrees with the Director-General of Conservation's comments, in that if the Hearing Panel were to approve PC31 then he recommends a 15-20m setback for Ohoka Stream Tributary, South Ohoka Branch and Groundwater Steep.
- 167 In his planning evidence Mr Walsh has concluded that the proposal will lead to an improvement to waterway ecology. Mr Walsh also states that the applicant has accepted the recommendation in the Section 42A Report for more generous setbacks based on the evidence of Mr Taylor

and Ms Drummond. PC31 also precludes the keeping of cats as a response to submitters' concerns.

- 168 Mr Walsh states that both Ms Drummond and Mr Taylor have identified the ecological benefits of the proposed development. He points out that Ms Drummond considers the proposal could result in net ecological benefits to the aquatic values and that the site has the potential to contain highly naturalised and enhanced watercourse corridors. Mr Walsh also believes that this improvement would also be assisted by the removal of dairying.
- 169 In his evidence Mr Walsh does not provide a planning assessment on whether the ecological functioning of the site would meet the NPS-FM or policies in the CRPS.
- 170 I have read Mr Willis' Section 42A Report, Mr Taylor, Ms Drummond and Mr Walsh's evidence and I have also undertaken a site visit where I have viewed the site from the road.
- 171 Mr Walsh's overall conclusion regarding ecology is that the proposal will lead to an improvement in waterway ecology. Mr Willis also states that he is comfortable with the Applicant's evidence regarding ecology.
- 172 Dr Burrell has provided further technical ecological evidence in response to that provided by the Applicant. He considers that the key potential effect of PC31 is the impact of urbanisation on hydrology and threatened wetland ecosystems.
- 173 Even though the Applicant has proposed buffers or setbacks for waterbodies, Dr Burrell is uncertain as to the effectiveness of these buffers as no evidence has been provided to show that they will provide appropriate protection of waterbodies from hydrological impacts. His evidence goes onto consider the appropriate buffer zone which he has rightly drawn from the NES-F. Activities potentially affecting wetland hydrology should be restricted within 100m of a wetland and as noted above, if PC31 is approved, this will need to be addressed as part of any future resource consent process. He also considers that the ecological value of the proposed setbacks will be reduced by urban design and safety requirements that limit planting.
- 174 Dr Burrell highlights in his evidence, the historical significance of the wetlands and waterbodies and although currently modified, they have

considerable restoration potential. The site includes a wide range of ecosystems including springs, streams, seepages and wetlands. Dr Burrell considers that the springs identified by the applicant meet the criteria for ecological significance as set out in CRPS Appendix 3 and that the springs meet the criteria for 'natural inland wetlands' in the NPS-FM. It is my view that this needs to be seriously considered when assessing the possible adverse effects of urban development.

- 175 In his evidence, Dr Burrell has identified the key ecological effects of PC31 as follows:
- a. The impact of urbanisation on hydrology of waterbodies, including threatened wetland ecosystems; and
 - b. The disruption of groundwater flow paths caused by urban development, and it is likely that the flow source to headwater springs and wetlands will be reduced.
- 176 Overall, Dr Burrell is unable to conclude whether the potential positive ecological effects of PC31 as a result of buffer zones outweigh the potential negative effects of urban development on hydrology, partly due to the lack of information on the hydrological effects of PC31.
- 177 I acknowledge that in an ecological sense, PC31 adheres to the planning provisions in the CRPS and LWRP. I do think that the planning provisions relating to ecology will become more relevant if PC31 is approved and subsequently moves to the consenting stage.
- 178 In his evidence, Dr Burrell concisely outlines the relevant policy framework in relation to ecological matters for PC31. The NES-F and the NPS-FM provide direction as to how freshwater ecosystems should be protected and seek to avoid further reductions to extent and ecosystem health rivers and wetlands. The CRPS sets out a suite of policies in Chapter 9 and states priorities for protection and significance. This is outlined above in my evidence where Dr Burrell has identified that the springs in the proposed site area meet the ecological significance criteria. Dr Burrell also notes that the decision on Plan Change 7 of the LWRP includes new policies relevant to the PC31 area.

CONCLUSION

- 179 I remain of the view that PC31 should be declined. The out of sequence nature of the development in this location is contrary to the higher order policy direction regarding strategic growth in both the NPS-UD and the CRPS. PC31 therefore does not give effect to those higher order policy documents.
- 180 As discussed by Mr Fleete, it is not possible to provide a public transport alternative for the Ohoka community without substantial subsidy support, something that is currently unplanned for, given the out of sequence nature of the proposed rezoning.
- 181 I remain concerned regarding the effects of PC31, particularly on groundwater and aquatic ecology. I do however acknowledge that issues regarding land contamination and flood hazard risk are able to be appropriately addressed as part of any future resource consent process.



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Joanne Mitten

21 July 2023