

Notice of appeal to Environment Court against decision
on proposed policy statement or plan

To The Registrar
Environment Court
Auckland, Wellington, and Christchurch

I, Murray David McDowell in my capacity as Trustee of The Broken River Trust (“the Trust”), appeal against part of a decision of the Waimakariri District Council on the Proposed Waimakariri District Plan.

I made a submission on that plan as a trustee of the Trust.

The Trust is not a trade competitor for the purposes of section 308D of the Act.

The Trust is directly affected by an effect of the subject of the appeal that –

- (a) adversely affects the environment; and
- (b) does not relate to trade competition or the effects of trade competition.

The Trust received notice of the decision at some point in mid July 2025.

The decision was made by the Waimakariri District Council.

The part of the decision that I am appealing is the decision that 685 Depot Road should change designation and become a GRUZ zone in the Proposed District Plan.

The reasons for the appeal are as follows:

(Please see attached)

I seek the following relief:

The property at 685 Depot Road, Burnt Hill should be zoned as Rural Lifestyle Zone as it had been previously and the Proposed District Plan should be amended accordingly.

I attach the following documents to this notice:

- (a) a copy of my original submissions plus my further submissions on this issue
- (b) a copy of the relevant part of the decision
- (c) any other documents necessary for an adequate understanding of the appeal
- (d) a list of names and addresses of persons to be served with a copy of this notice.

Date: 13 August 2025



ADG Hitchcock

Address for service of appellant: AWS Legal, Solicitors, 80 Don Street, PO Box 1207, Invercargill

Telephone: 03 211 1370

Fax/email: andrew.hitchcock@awslegal.co.nz

Contact person: Andrew Hitchcock, Partner

Note to appellant

You must lodge the original and 1 copy of this notice with the Environment Court within 30 working days of being served with notice of the decision to be appealed. The notice must be signed by you or on your behalf. You must pay the filing fee required by regulation 35 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003.

You must serve a copy of this notice on the local authority that made the decision and on the Minister of Conservation (if the appeal is on a regional coastal plan), within 30 working days of being served with a notice of the decision.

You must also serve a copy of this notice on every person who made a submission to which the appeal relates within 5 working days after the notice is lodged with the Environment Court.

Within 10 working days after lodging this notice, you must give written notice to the Registrar of the Environment Court of the name, address, and date of service for each person served with this notice.

However, you may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (*see* Form 38).

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in Form 33) with the Environment Court within 30 working days after this notice was lodged with the Environment Court.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (*see* Form 38).

** How to obtain copies of documents relating to appeal*

The copy of this notice served on you does not attach a copy of the appellant's submission and (*or* or) the decision (*or* part of the decision) appealed. These documents may be obtained, on request, from the appellant.

* Delete if these documents are attached to copies of the notice of appeal served on other persons.

Advice

If you have any questions about this notice, contact the Environment Court Unit of the Department for Courts in Auckland, Wellington, or Christchurch.

The Submission and the Decision

The Trust opposed 685 Depot Road becoming a GRUZ zone in the Proposed District Plan with the consequent impact the minimum lot size for development on the property would increase from 4ha to 20ha and resource consent would be necessary for non-complying 4ha lots in the future.

The Trust's submission was rejected. The Trust is concerned its submission was inadequately summarised and substantially understated in the Hearing Officer's Report for the Hearings Panel dated 10 May 2024.

In addition it believes the Hearing Officer has taken into account irrelevant considerations and failed to take into account relevant considerations when making the recommendation the Trust submission should be rejected.

The Hearing Officer's decision which was essentially rubberstamped by Council is summarised in the Hearing Stream 12B Summary Table dated 27 August 2024 pg. 8 which says:

"As the site is within HPL, Policy 6 of the NPS-HPL applies, which seeks avoidance of the rezoning and development of HPL as RLZ, except as provided for in Clause 3.10. Clause 3.10 sets out the exemption criteria for such rezonings and I consider this requires a substantial site-specific evaluation that demonstrates how all these conjunctive exemptions are met. I do not consider this submitter has demonstrated that Clause 3.10 has been met. Without such evidence, I consider this request does not give effect to the NPS-HPL."

The Trust believes there are multiple failures with this summary:

1. It ignores large sections of the Trust's submission specifically:
 - a. The fact the previous zoning of the property provided for a minimum lot size of 4ha.
 - b. The property had been previously consented by Council to be subdivided into 15 4ha lots.
 - c. Significant development contributions had been paid to Council and infrastructure developed on the property to give effect to that subdivision consent.
 - d. The property because of its size and location is not economically viable for primary production.
 - e. The property is surrounded by 74 rural lifestyle properties with 17 in close proximity to the property.
2. The summary treats the Trust's submission as an incomplete application for exemption from the proposed rezoning under the Proposed District Plan rather than what it actually was which was a submission on the proposed rezoning of the Trust's property under the Proposed District Plan.
3. The summary then says without a substantial site-specific evaluation that demonstrates how all the conjunctive exemptions are met the Trust's submission does not give effect to the NPS-HPL. Again treating the Trust's submission as an incomplete application for exemption under the Proposed District Plan.
4. The Hearing Officer/Council is familiar with the exemption criteria (which the Trust accepts is relevant to its submission even though it was not making an exemption application).
5. The Trust believes its submission contained all of the site specific information required to address the exemption criteria and the Hearing Officer/Council improperly failed to consider the relevant information above.
6. More importantly the Hearing Officer/Council took into account irrelevant considerations namely that the Trust's submission on the proposed rezoning of the Trust's property under the Proposed District Plan should not be considered because it wasn't supported by third party evaluation which of course is only relevant to an exemption application. The Hearing Officer/Council accordingly failed to consider and properly respond to the Trust's submission.

Narrative

The property at 685 Depot Road, Burnt Hill, Oxford is an estate in fee simple being 45.5803ha more or less Lot 97 Deposited Plan 454478 ("the property").

The Broken River Trust ("the Trust") purchased the property on 6 July 2007. The Trust is an entity settled by Murray David McDowell and he is a Trustee of the Trust.

Prior to the Proposed District Plan the property was zoned as Rural Zone ("RU"). The property is located in the middle of an established area of rural lifestyle blocks along Depot Road from the west of Eyre River Creek Bridge to the Waimakariri Gorge Bridge.

It is accepted the property is largely comprised of HPL land however the Hearing Officer correctly notes at page 43 of the Report that a portion of the property is outside LUC 1, 2, or 3 soils and is LUC 6 which is defined as:

"Non-arable. Slight to moderate limitations to pastoral use, suitable for pasture, tree crops and forestry and in some cases vineyards. Erosion is generally the dominant limitation".

The Hearing Officer's comment is:

"I therefore consider that these areas could potentially have some primary production potential, albeit much more limited than LUC 1 to LUC 5 land."

The property is located in the middle of some 74 rural lifestyle properties with 17 in close proximity. The Trust has attempted to use the property for the past 20 years for a variety of primary production purposes which will be detailed in evidence upon appeal. It has never been able to be operated as an economic primary production block because it has a number of fundamental issues which mean it will never be economically viable.

The issues constraining the productivity of the property will be more particularly discussed below.

The point of the Trust's submission was to preserve the status quo of the property which allowed subdivision of the property into minimum lot sizes of 4ha as of right.

The basis of the Trust's submission on the Proposed District Plan was so that a previously consented 15 staged lot development on the property could be completed as a compliant activity. Waimakariri Council reference consent numbers RC065655, RC065372, RC10527 and RC125043.

Under the staged consent 4 lots have already been legally created. RC125043 (approved February 2012) gave a time extension on RC065655 until 30 June 2012. More lots were not created and sold because in 2010 there was a surplus of lifestyle properties in the immediate vicinity and the returns were not there to justify the very significant infrastructure costs. Accordingly the staged subdivision was not able to be completed by 30 June 2012. The intention was to Renew the consents and complete the subdivision when funding and the economic climate was such the return from the subdivision was maximised.

Council has received fees in respect of the development and a significant investment in the necessary infrastructure for the development has been made by the Trust in a variety of ways.

The Broken River Trust augmented its initial submission in an email to Council dated 25 September 2023 and provided further information about the subdivision. In that second submission the Trust outlined the fact it had:

1. Extended the main water line along Depot Road to the boundary of Lot 2.
2. It has on-site 5 of the required water tanks to complete the subdivision and has a significant allocation of rural water scheme in place for the lots ("the lost").
3. Water tanks had been placed on site for creation of the 10 unsubdivided lots.
4. The Trust has constructed the ROW/Road entry subbase for the lots.
5. It has installed an overhead power supply with a 50kVA transformer for the lots.
6. The Trust has acquired the necessary machinery to undertake the earthworks to complete the subdivision.

7. Also attached to the Trust's second submission are Appendices L and M detailing the fees paid to Council's Development Contributions for reserves and roading which total \$41,435.94.

The Trust in a second submission to the Hearing Officer sought that a site visit was undertaken so Council could verify the extent of the work undertaken for the consented subdivision. No site visit was undertaken.

That is perhaps not surprising because all of these very fundamental features of the Trust's submission in respect of the well advanced subdivision were not summarised for Council by the Hearing Officer. Further, these very relevant factors were apparently not considered by the Hearing Officer when coming to the decision to decline the Trust's submission.

The fact the Proposed District Plan will make the property an isolated area of GRUZ land within a predominantly RLZ area and surrounded by small lifestyle blocks is demonstrated clearly on some of the maps in the Hearing Officer's Report specifically ref page 100 of the Hearing Officer's Report.



Figure D9: 685 Depot Road, Burnt Hill [Murray McDowell - 417.1, 417.2] (Source: WAIMAP)

Appeal Submissions

The following submission augments the two previous submissions filed for the Trust.

As noted above one of the submitted weaknesses of the recommendation made by the Hearing Officer is that the Trust's submission was treated almost as a de facto application for exemption for proposed rezoning.

I have addressed what I believe the fundamental failure is in terms of that reasoning and also the fact the Hearing Officer thought the exemption issues would require a substantial site specific valuation but didn't attempt to analyse the specific facts set out in any of the individual submissions.

With that said it is submitted that the provisions of cl 3.10 of NPS-HPL which sets out the exemption criteria for such GRUZ to RLZ HPL rezonings are helpful when discussing or assessing the merits of the Trust's submission.

In summary the exemption criteria are as follows:

- i. *That the site must be subject to permanent or long-term constraints that mean the use of the HPL for land-based primary production is not able to be economically viable for at least 30 years, and that such constraints cannot be addressed through any reasonably practicable options that would retain productive capacity (e.g., changing farming practices) (Clause 3.6(2)). It states that the size of a landholding is not of itself a determinant of such a constraint (Clause 3.10(4)); and*
- ii. *That the subdivision, use or development of HPL would avoid significant loss of productive capacity of HPL (Clause 3.6(1)(b)(i)); and*

- iii. *That it avoids fragmentation of large and geographically cohesive areas of HPL (Clause 3.6(1)(b)(ii)); and*
- iv. *That it avoids or mitigates potential reverse sensitivity effects on surrounding primary production (Clause 3.6(1)(b)(iii)); and*
- v. *That the benefits outweigh the long-term costs, considering both tangible and intangible values (Clause 3.10(1)(c)).*

Looking at each issue in turn:

Economic Viability

The property is not remotely economically viable as a primary production unit.

Objective 5.2.1 (which applies to the entire District) seeks development that *“enables rural activities that support the rural environment including primary production...”*

Policy 5.3.12 (which applies to the wider region thus the portion of the District outside greater Christchurch) aims to *“maintain and enhance natural and physical resources contributing to Canterbury’s overall rural productive economy in areas which are valued for existing or foreseeable future primary production...”*

The Trust has owned the property for 20 years. Because of its size, the nature of the soils and the location of the property it is not economically viable as a primary production unit. Financials will be presented at hearing to demonstrate 20 years of uneconomic operation as a primary production unit.

Detailed evidence will be produced upon appeal however the property suffers from a lack of topsoil depth and lack of a clay substrata which means the ground is unable to retain moisture. High volumes of rainfall occur usually in a 1 to 3 month period of the year. The property has a 20m elevation difference from front to back of the property over 1000m falling towards Depot Road south east corner. The property has two natural watercourses running through it as set out in Appendix H to the Trust’s first submission. In high rainfall events huge volumes of water flow both down the watercourses and across and overland on the property. The reason for the disproportionate volumes of water travelling across the property is because it is located in what is effectively a bottleneck point from which upcountry areas of farmland run-off travels before flowing through the property and into the Depot Road reserve.

Council is well aware of the problems this has caused which to the knowledge of the Trust has resulted in 20 years of frequently occurring flooding issues of lifestyle properties in the area adjacent to the property and down the road from the property.

In response to the problem Council has spent a lot of money repairing erosion damage to McPhedrons Road to divert some run-off from migrating across the Trust property. Work was done on Watsons Reserve Road by Council with new swales and soak holes installed to divert water run-off away from McPhedrons Road down Watsons Reserve Road towards Woodstock Road. Council then spent significant money lifting the centre-line levels of Depot Road for approximately 3km so water stopped migrating over Depot Road which work was only partially successful. The flooding persists and the impact of Council’s work has been to spread the flooding issues over more landowners than had experienced flooding in the past.

An independent expert report will also be produced at hearing as to the economic viability of the property.

Another issue in terms of economic viability is the fact that because it is completely surrounded by 4ha lifestyle blocks it cannot economically be amalgamated with other HPL areas.

Loss Of Productive Capacity Of HPL

There is no real loss of productive capacity of HPL. The property is not economically productive and cannot be amalgamated with any other areas of HPL to make it economically productive.

It is already significantly down the track in terms of being subdivided into 15 4ha lots. That is the obvious and only economically and socially sensible option for the property.

Fragmentation Of Large And Geographically Cohesive Areas Of HPL

This issue has been discussed in the two submissions of the Trust provided to the Hearings Panel and Council. Quite to the contrary to the mischief of fragmentation of large and geographically cohesive areas of HPL the Proposed District Plan provision will leave the property as a pointless and unproductive bastion of unsubdivided farm land in the middle of an inarguably RLZ area.

It is inarguably the case the property is surrounded by 74 rural lifestyle properties of @ 4ha with 17 in close proximity.

Reverse Sensitivity

Two of the annexures to the second submission filed for the Trust highlight the fact the property is surrounded by rural lifestyle blocks.

As discussed above the property is not able to be economically used for primary production purposes and it is obviously undesirable to have the property remaining undeveloped in the centre of a high-density rural lifestyle community with the inevitable consequence there is not appropriate separation between potentially conflicting activities to avoid reverse sensitivity effects.

Policy 5.3.12 1B discusses 4ha lifestyle blocks resulting in reverse sensitivity effects that limit or preclude primary production. This is one of the many challenges that already exists for the property.

The second submission of the Trust sets out in significant detail the reverse sensitivity issues that are actually (not just potentially) occurring in respect of the property. Reverse sensitivity occurs both ways with this land creating a problem for the rural livestock blocks around the property and those blocks in turn causing difficulty and making complaint to Council about the Trust's attempted use of the property for primary production purposes. I

It is emphasised the reverse sensitivity issues affect all of the 17 rural lifestyle properties in close proximity to the property but activities such as ag spraying and lime fertiliser drift affects at the very least an additional 3 adjacent rural lifestyle properties.

Benefit And Detriment

It is submitted there are no detrimental impacts of the submission or the outcome sought by the Trust.

The Trust purchased the property understanding that it was not one which was suitable or economic to try to develop its utilisation for primary production. The Trust purchased the property with the express intent of subdivision.

The Proposed District Plan's rezoning of the property would leave the property in an unfortunate situation. For the reasons noted above it will not be purchased for primary production purposes. It is an extant cause of actual reverse sensitivity problems in its locality and the Proposed District Plan will make it more difficult to complete the subdivision of the property.

The property will deliver significant environmental benefits as a consequence of the Trust being able to complete the subdivision. Subdivision will by default see more deep soak holes installed which will help in ensuring that next to no run-off migrating across the property will reach the Depot Road Reserve.

This is a significant benefit to Council, road users and surrounding property owners. This will also mean near zero effluent, nutrient and soil erosion run-off off the property following subdivision.

Further, the quality of water flowing into the soak holes will improve following subdivision because the run-off to soak holes will be significantly cleaner than the current effluent and nutrient run-off that takes place as a consequence of attempted primary production on the property.

From the Trust's perspective rezoning the property as sought will allow the Trust to complete the subdivision of the property without further significant cost and potential restriction or difficulty. This will facilitate the environmental benefits noted above and also achieve a sensible societal outcome of having this unfortunate bastion of rural land in the middle of what is a significant and geographically cohesive area of RLZ sensibly rationalised.

DISTRICT PLAN REVIEW

Proposed Waimakariri District Plan - Submission

Clause 6 of Schedule 1, Resource Management Act 1991

Submitter details

(Our preferred methods of corresponding with you are by **email** and **phone**).

Full name: _____

Email address: _____

Phone (Mobile): _____ Phone (Landline): _____

Postal Address: _____ Post Code: _____

Physical address: _____ Post Code: _____
(if different from above)

Please select one of the two options below:

I **could not** gain an advantage in trade competition through this submission (go to Submission details, you do not need to complete the rest of this section)

I **could** gain an advantage in trade competition through this submission (please complete the rest of this section before continuing to Submission details)

Please select one of the two options below:

I **am** directly affected by an effect of the subject matter of the submission that:

- A) Adversely affects the environment; and
- B) Does not relate to trade competition or the effect of trade competition.

I **am not** directly affected by an effect of the subject matter of the submission that:

- A) Adversely affects the environment; and
- B) Does not relate to trade competition or the effect of trade competition.

Submission details

The specific provisions of the proposal that my submission relates to are as follows: *(please give details)*

My submission is that: *(state in summary the Proposed Plan chapter subject and provision of your submission. Clearly indicate whether you support or oppose the specific provisions or wish to have amendments made, giving reasons) (please include additional pages as necessary)*

I/we have included: _____ additional pages

I/we seek the following decision from the Waimakariri District Council: *(give precise details, use additional pages if required)*

Submission at the Hearing

I/we wish to speak in support of my/our submission

I/we do not wish to speak in support of my/our submission

If others make a similar further submission, I/we will consider presenting a joint case with them at the hearing

Signature

Of submitters or person authorised to sign on behalf of submitter(s)

Signature _____

Date _____

(If you are making your submission electronically, a signature is not required)

Important Information

1. The Council must receive this submission before the closing date and time for submissions.
2. Please note that submissions are public. Your name and submission will be included in papers that are available to the media and public. Your submission will only be used for the purpose of the District Plan review process.
3. Only those submitters who indicate they wish to speak at the hearing will be emailed a copy of the planning officers report (please ensure you include an email address on this submission form).

If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.

Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that at least 1 of the following applies to the submission (or part of the submission):

- It is frivolous or vexatious
- It discloses no reasonable or relevant case
- It would be an abuse of the hearing process to allow the submission (or the part) to be taken further
- It contains offensive language
- It is supported only by material that purports to be independent expert evidence, but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

Send your submission to: Proposed District Plan Submission
Waimakariri District Council
Private Bag 1005, Rangiora 7440

Email to: developmentplanning@wmk.govt.nz

Phone: 0800 965 468 (0800WMKGOV)

You can also deliver this submission form to one our service centres:

Rangiora Service Centre: 215 High Street, Rangiora

Kaiapoi Service Centre: Ruataniwha Kaiapoi Civic Centre, 176 Williams Street, Kaiapoi

Oxford Service Centre: 34 Main Street, Oxford

Submissions close 5pm, Friday 26 November 2021

Please refer to the Council website waimakariri.govt.nz for further updates

My Submission

1. I am opposed to 685 Depot Road being zoned General Rural Zone in the Proposed District Plan.
2. I am opposed to the minimum lot size increase from 4ha to 20ha on this property.
3. I am opposed to requiring a resource consent application for a non-complying 4ha lots subdivision in the future.
4. I am opposed to the Rural Lifestyle Zone corridor west of Rangiora finishing East of Cust.

Rational for Opposition

(a). In the Proposed District Plan there is a Rural Lifestyle Zone corridor west of Rangiora along Oxford Road through to the east side of Cust encompassing the existing Rural lifestyle living along that corridor. My property is a little over 45ha near on in the middle of 74 Rural lifestyle properties with 17 close proximity/over the fence neighbours encircling it. Rezoning this block in the Proposed District Plan will enable it to be developed and finish the density that exists around it.

(b). Rezoning this parcel will mean a previously consented 15 lot development can be completed as a complying activity, Note: that 4 lots have already been created under that previous consent. In addition to this point a significant invest in infrastructure has occurred anticipating completion in the future.

(c). Having larger size lots around the skirts of high intensity rural lifestyle living as a buffer *ensuring appropriate separation between activities to avoid reverse sensitivity effects* (Boffa Miskell) on the larger more intensified farming uses makes sense. Having an intensive farm use in the centre of a high density Rural Lifestyle living community doesn't make sense. It is problematic and not an outcome the Proposed District Plan should aspire to.

Arguments.

1. Pause means Stop

The Proposed District Plan does not preclude making a consent application to achieve a 4ha lot subdivision. On face value the language used in the court ruling suggests the same. The Council when seeking the order for immediate legal effect submitted:

"that the order sought would serve to create a "pause" to allow submissions to be heard and decided in the current environment"

I argue this language does not have the same meaning in the real world as it does in the planning world. After discussing this passage with Planning professionals, I am of the belief that the word "Pause" in planning language actually means, that's it! no more!. Council may claim that a fair and equitable process will exist under a non-complying activity resource consent application. In light of the clarification I received I contend any application would be met with a rebuff as Council has clear intention not to allow any future subdivision if the Proposed District Plan General Rural Zone rules are adopted. Without a re-zoning of my property I am firmly of the opinion that my ability to subdivide in the future will be zero.

2. My rural Kiwi saver account.

My development project was part of my superannuation savings scheme. I have partially completed the development however let the consent lapse with the intention of reapplying when financial conditions allowed me to complete it.

The result of the proposed change to the minimum lot size would see my ability to finish this development and full value potential of this land to boost my Kiwi saver retirement plan erased. Your 'Section 32 Report' confirm this when it stated:

It acknowledged that motivations for subdivision are varied but include subdividing all or parts of property to increase financial security, using subdivision as part of a superannuation scheme, to reduce debt or as part of a succession process. This flexibility will be reduced within the General Rural Zone.

Peter Gordon wrote in his Waimakariri District Plan Review:

..., the inability to subdivide could reduce the land value and therefore lower the landowners potential longer term financial return. This will only affect those landowners who have purchased land with a view to future subdivision and not those that are maximising operational performance.

I happen to fit in this group and therefore likely to be one who experiences equity loss. Rezoning my land to enable an infill development will not be the ruination of the district, it won't shut out farmers from the market or from them expanding their farms and making more profit. My land is encircled in Rural Lifestyle living now and for enjoyment of quality of life an infill development is fair and just. Rezoning my block to allow for the completion of my development removes any risk of equity loss and preserves my Kiwi Saver prospects.

3. A localised Consideration.

Having one General Rural Zone that captures all the pockets and corridors of existing rural lifestyle living outside of the Proposed Rural Lifestyle zone is not fair on those living in high density rural lifestyle living in the proposed General Rural Zone.

The community my property is embedded in is a pocket of Rural Lifestyle living in a western corridor along Depot Road from the west of Eyre River creek bridge to the Waimakariri Gorge bridge. This corridor realises 214 lifestyle properties but only 100 properties in this corridor make up the 'buy/sell' market contributing 275 sales history. 69 sales have occurred in the past 5 years of which 26 in the past 12 months. There are 45 vacant lifestyle lots in this corridor, 25 of these lots created in the last 5 years with 16 vacant lot sales in that period. Boffa Miskel in its Rural Character Assessment identified this area as one of the more rapidly growing areas and wrote:

The more recent and rapidly growing rural residential settlement, taking place on parcels such as...Depot Road between Oxford and the Gorge Bridge, conveys a different pattern of modern homes typically set further back.

The 75 property pocket I am apart of has the largest density along this corridor with 72 Rural lifestyle size blocks within it. Since their creation over the past 15 odd years the 72 properties have sold 144 times of which 55 have no on-sales, with the balance 17 properties changing hands multiple times. In the past 10 years 82 sales have occurred, in the past 5 years 27 sales and in the last 12 months 6 sales with additional properties still on the market. (statistical data from www.homes.co.nz web site)

This confirms this corridor is popular, it shows there is clearly a limited supply of property for sale here and justification for further small scale infill development should take place as a number of first buyers are staying put and a reasonable volume of land banking in vacant lots has occurred.

4. Wasted Assets.

To date, in anticipation of completing my development I have constructed the ROW/road entry sub base for the balance of the lots previously consented, have installed an overhead power supply with a 50KVa transformer for the remaining lots, have on site 5 of the required water tanks to complete the subdivision, have a significant allocation of Rural Water scheme in place for those lots, have acquired the necessary machinery to undertake the earthworks to complete the subdivision. A significant investment sitting in waiting.

Had I not invested in these assets I could have been in a position to lodge a consent application prior to the notification and immediate legal effect notice being put in place. Not allowing my property to be developed now as an infill development and bring continuity to this area of our community would be unfair and unjust.

5. Managing effect-causing use conflicts.

During the past 10 years, conflict has developed between me trying to maintain my property and the rural lifestyle character of the neighbouring properties. Conflicts are exemplified but not limited to:

- In the past 4 years we have tried to maintain the pasture with the use of animals. Farm animals often act differently to lifestyle animals.

- Young Bulls on my side of a fence get themselves well worked up even if 1 heifer or 1 Bull is on the other side, resulting in chaos. Moving my animals away from neighbouring fence lines is impracticable. Numerous injuries from animals fighting has resulted in two this winter needing to be put-down due to their injuries.
- A neighbours animal escaped into my property and got into fights with my Bulls. Permission was sought from police to carry a shot gun into my paddocks for protection while trying to separate this escaped animal. This request was denied due to animal and owners' rights. Note; If I was bunny shooting and an animal jumped the fence and charged my I could shoot it as self-defence. If I went into the paddock with a gun for protection and shot it in self-defence that is intent and trouble for me.

- The effects of gunfire in pest control is a MAJOR issue.

- 150 plus hares have been shot on my property over an 8year period with a rifle resulted in numerous Police complaints and visits. Due to the high density of lifestyle living properties around my boundary (up to 17). The sheer number of complaints and the inability to maintain clear firing lines and separation distances from neighbours meant shooting with a rifle has had to stop. Only a shot gun can be used and it is ineffective and now the current population is about 40 and growing.

The notion that larger sites will be less effected by sensitive activities on adjacent properties as described in your Section 32 Report seems not to offer my life the peaceful bliss implied by its words. It reads:

Larger sites will be less affected by sensitive activities occurring on adjacent or nearby properties having expectations for amenity values are not consistent with a working and productive rural environment.

Although this statement has some merit the reality for me is that I am surrounded by lifestyle blocks who are effected "by sensitive activities occurring on [an] adjacent...property...", mine, and do have expectations and rights. Managing farming rights and rural lifestyle living rights have become impossible. The conflicts remain if subdivision is not permitted, they don't get resolved if I subdivided my block in two, which is permitted under the Proposed District Plan. They diminish to manageable if I finish my development.

The Council, in allowing the surrounding area to be subdivided down in the past but not allowing in the future will leave me and my neighbours with these ongoing conflicts but Council can afford us all a more peaceful and safer future that goes with a Rural Lifestyle Zone through a rezoning that will enable me to complete the development and bring about the 'Community Continuity' the area needs.

Summary.

If the wording in the plan District Plan Review narratives are genuine and pause means what it says I see no reason for Council not to rezone my piece of land as Rural Lifestyle Zone. It would allow me to sub-divide as of right and not needing to travel a time consuming and expensive application process risked of not being approved.

Left as it stands my Kiwi saver account loses. Rezone my land and my retirement plan looks ok.

My property is already embedded in is a pocket of rural lifestyle living. There is close to a shortage of properties available to meet current demand and in the existing corridor there will be a need for more property during the next plan cycle. The lots that I will create will not over supply that demand.

Giving me the ability to complete my subdivision will see the possibility of tens of thousands of dollars not needing to be refunded and tens of thousands of dollars not wasted on infrastructure never to be used.

My block needs to be finished for 'Community Continuity'. Nuisance issues are and will be a mine field in the future if my block stays as it is.

Finally, a zone change that will allow the completion of my 4ha subdivision is the fairest and most just outcome we all concerned.

What do I want and need from Council?

Rezone my property at 685 Depot Road Burnt Hill Oxford 'Rural Lifestyle Zone' under to Proposed District Plan so that the completion of this empty pocket can be undertaken in the future and that 'Community Continuity' can be established preserving the character and charm that has developed in this pocket of Rural Oxford.

Submission number #417

1 message

Murray McDowell <buildbest@gmail.com>
To: Audrey Benbrook <audrey.benbrook@wmk.govt.nz>

Mon, Sep 25, 2023 at 1:18 PM

Hi Audrey

I can confirm to you that I wish to request a site visit relating to my submission number #417 and confirm that I would like to speak to this submission at the hearing please.

I submit to you for consideration my many reasons I felt a site visit would be helpful and wish to lodge further evidence supporting my request and submission.

Wasted Assets.

I made a claim in my submission that I have made significant investment in infrastructure towards completing my previously approved consent RC065655/070213003636 approved 13 February 2007 and felt that the panel seeing for their own eyes the extension of the main 'water line' along Depot Road to the boundary of lot 2 of the aforementioned consent, Water tanks on site for new lots creation, Main entry sub base construction for the new lots off Depot Road and the install of the 11kV power supply to a 50kVa transformer to provide power to the new lots and the creation of a 'right to circulate' giving pedestrian and animal access to McPhedrons Road from Depot Road that has been partially completed. I am of the opinion that a site visit would help the panel understand my investment and validate these points in my submission as maps will not show these areas of investment as well as seeing them.

I attach plans of the original consented plan and the two stages that have been completed, marked APPENDIX A,B,& C. I point out that the 'right to circulate' is not marked on this plan but wanted to point out in a site visit where the 'right to circulate' was created along the west boundary of lot 10 with direct access to McPhedrons Road, encouraged, endorsed and applauded by the then District Plan Manager Victoria Casey. Completing the subdivision would see this asset realised for so many in this area.

My rural Kiwi saver account

In my submission I wrote on 'My rural Kiwi saver account'. Although council and the panel are aware from their section 42A reports that the 'equity loss' of my

property was a probable effect and acceptable for the greater good of the catchment and Proposed District Plan. I wish to table how significant that is on my property. Attached is further evidence of my in-house block value calculations marked APPENDEX D & E and my background cost formulation marked APPENDEX F & G demonstrating the equity loss probability I will experience under the Proposed District Plan.

Managing effect-causing use conflicts

In my submission I raised the issue of 'Managing effect-causing use conflicts' or cross boundary issues. Some of these are sensitive and have been the centre of many neighbour disputes where Police and animal welfare rangers have got involved. I was of the opinion that a site visit could be used to show the properties I am affecting and the properties that are affecting me without the need to formally document these properties and the issues that are present due to the different land uses that currently exist. I have 17 neighbours encircling me and have had significant problems that would bring embarrassment and anger to those involved if I tabled a map identifying them with the issues identified in my submission for all of the area to view. I still have to live beside these property owners and deal with them regally. I wish the panel to know about theses issues but not alienate, offend or embarrass my neighbours in achieving that objective.

One example a site visit will food me is to show the panel a boundary issue Council signed off on with a 224C certificate on a neighbouring subdivision in 2006 with a 600-900mm error on the existing boundary fence positioning to my disadvantage. The boundary is 800m long with 7 neighbours. A fix solution has stalemated with no clear agreed opinion us on what should be done about it. In the mean time some properties have changed hands and this issue reinvents with new owners. A completed subdivision would address this issue and resolve the problem for everyone.

A site visit would allow the panel to see first hand this error and one of the issues, which is the debris that has been deposited onto my side of the boundary fence from the neighbours who felt they had a right to do so, noting that one waited 2 months until we had cleared the fence line of previous debris for animal safety reasons and animal security before depositing more debris. New owners now see this and believe it is correct under Council policy on shared fence lines and are likely to continue the practice.

A site visit would give me the opportunity to highlight the fence line error which is not insignificant, the trimming of the trees, not to the legal boundary which is 600-900mm on their side of the fence but to the tree trunks which are almost 2 m off the legal boundary.

A completed subdivision could see a new boundary fences in the legally correct locations and bringing greater clarity to the line any future trimming can take place.

In my submission I stated that "*Conflicts are exampled but not limited to*". A site visit would be used to show and demonstrate another significant affect the current use of my property is causing to some neighbour across from my property. Water run off from my land is having a significant affect on two neighbours and down stream property owners and road users as water often breaches the road centre line as the culvert is not coping with the flow. The Council attempted to fix the issuer in the past with great investment in this culvert outside the south eastern corner of my boundary on Depot Road and a Depot Road centre line height adjustment but neither have solved the problem.

Not until my sub division is complete can the run off issue be resolved as a completed sub division will have a number of soak pit catchments that will take , if not all the problem run off, a significant amount that will alleviate or eliminate the issues the run off is causing properties opposite my property, which incidentally they didn't have a run off problem before the Council installed the culvert. The culvert took the problem away from one property long Depot Road and directed it to two others.

I attach a picture of the run off from the last large rain event in July. Attached is APPENDIX H showing the Flood Risk Map for WDC over my property however the reality of the run off is different from the Maps as they are errored as the attached pictures marked APPENDIX I,J & K demonstrate. Hence why a visit by the panel in person and not relying on reading maps is important to my submission.

I wished to demonstrate to the panel at a site visit where the water is coming from and where it is going and how a completed subdivision fixes the problem for so many property owners and road users.

Submission Summary.

I stated in my submission summary that "*Giving me the ability to complete my subdivision will see the possibility of tens of thousands of dollars not needing to be refunded*". I attach further evidence of the fees that were paid to Council as contributions 'Roading Upgrade Financial Contributions' APPENDIX L & M. The Council has not completed the new seal of the section of McPhedrons Road that the contributions were taken for. The policy was that if the Council did not use the funds to complete the work in a period of time the funds are returned to the developer. The work has not been done and the funds have not been returned and therefore if I can not gain a right to complete my subdivision under the

Proposed District Plan I would be seeking the funds to be returned.

I have not enclosed a map identifying the neighbours that have been affected and are affecting the current farming operation as this is too sensitive and would request an alternative confidential method of providing that information please if a site visit is felt inappropriate.

I will try and attach all the APPENDIX'S in this email but if it fails I will send separately

Kind regards

Murrasy McDowell
0274375275

APPENDIX D

the VICM Marge

DEPOT ROAD (REALISTIC EXPECTATION)

11 LOT SUBDIVISION

2021 Calc

Maximum Yield Calculation		GST EXCLUSIVE
Gross Realisation (Realistic) 6 Lots		\$2,750,000.00
Less Agents Fees	11 Lots x 5%	\$137,500.00
Less Conveyancing	11 Lots x \$2500	\$27,500.00
Less Profit & Risk Factor 30% of (\$1500,000.00)		\$825,000.00
Total Outlay		\$1,760,000.00

Direct Costs

SERVICES	\$135,000.00
Roading ROW	\$130,000.00
POWER TELEPHONE	\$75,000.00
ENTRIES TO SECTIONS	\$45,000.00
INTERNAL FENCING	\$72,000.00
MAIN ENTRY	\$25,000.00
Surveying & Engineering	\$20,000.00
POWER MAINS RECOVERY	\$25,000.00
ROAD FRONT FENCE	\$40,000.00
Rates 1st & 2nd YEAR	\$33,000.00

COUNCIL CONTRIBUTIONS	\$152,000.00
Landscaping (PC sum) in lieu of reserve contribution	\$0.00
Opportunity interest @ 7% / 2 years on \$40,000	\$84,000.00

SUB-TOTAL	\$836,000.00
no of sections	10
cost per section	83,600.00
DIRECT COSTS	\$836,010.00

	\$923,990.00
Less legal costs to purchase land	\$20,000.00

BLOCK VALUE	\$903,990.00
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Therefore maximum funds available to BBCL on completion would be,

Profit+opport inte+block value	\$1,812,990.00	
expected return on investment	\$909,000.00	nett \$1,105,847.14
LAND PURCHASE PRICE	\$707,142.86	-\$196,847.14

APPENDIX E

DEPOT ROAD (REALISTIC EXPECTATION)

2 LOT SUBDIVISION

Not Compliant

Maximum Yield Calculation		GST EXCLUSIVE
Gross Realisation (Realistic) 1 Lot for house and Balance 40ha		\$1,150,000.00
Less Agents Fees	2 Lots x 5%	\$57,500.00
Less Conveyancing	2 Lots x \$2500	\$5,000.00
Less Profit & Risk Factor 30% of (\$2,290,000.00)		\$345,000.00
Total Outlay		\$742,500.00

Direct Costs

SERVICES	\$30,000.00	
Roading (ENTRY CONSTRUCTION RECOVER)	\$12,500.00	
POWER TELEPHONE RECOVERY	\$25,000.00	
ENTRIES TO SECTIONS	\$6,000.00	
INTERNAL FENCING	\$9,000.00	
MAIN ENTRY	\$12,000.00	
Surveying & Engineering	\$15,000.00	
FRONT FENCE	\$40,000.00	
RESERVES CONTRIBUTION	\$1,100.00	
Rates 1st & 2nd YEAR	\$6,000.00	
ROADING CONTRIBUTION	\$5,260.00	
Landscaping (PC sum) in lieu of reserve contribution	\$0.00	
Opportunity interest @ 7% / 2 years on 160,000	\$15,000.00	
SUB-TOTAL	\$176,860.00	
no of sections	2	
cost per section	88,430.00	
DIRECT COSTS	\$176,862.00	
	\$565,638.00	
Less legal costs to purchase land	\$20,000.00	
BLOCK VALUE	\$545,638.00	

Therefore maximum funds available to BBCL on completion would be,

Profit+opport inte+block value	\$360,000.00	\$545,638.00	
expected return on investment	\$707,142.86	nett	\$198,495.14
LAND PURCHASE PRICE	\$707,142.86	\$161,504.86	

APPENDIX F

Direct cost formulation

SERVICES	QUANTITY	UNIT	RATE	EXTENSION	
WATER TANK	11	NO	3800	\$41,800.00	
MAINS TO NEW ROAD	460	M	25	\$11,500.00	
LATERIALS	330	M	15	\$4,950.00	
WATER RIGHTS	12	UNIT	4460	\$53,520.00	
EXCAVATION/PLACE/FILL	11	NO	300	\$3,300.00	
				\$0.00	
connections to road main	8	NO	500	\$4,000.00	
EXSTEND 63MM MAINS	600	M	25	\$15,000.00	
				\$0.00	
				\$0.00	
				\$0.00	
				\$0.00	
				Sub Total	\$134,070.00
				GST	\$16,758.75
				NETT	\$150,828.75

ENTRIES TO SECTIONS	QUANTITY	UNIT	RATE	EXTENSION	
EXCAVAT	28.08	308.88 M3	4.5	\$1,389.96	
GRAVEL	28.08	308.88 M3	40	\$12,355.20	
FENCE AND GATES		11 NO	1800	\$19,800.00	
PLANTING	15	NO	200	\$0.00	
BUTRESS CROSSINGS		2 NO	5000	\$10,000.00	
				\$0.00	
				\$0.00	
				Sub Total	\$43,545.16
				GST	\$5,443.15
				NETT	\$48,988.31

POWER/TELEPHONE	QUANTITY	UNIT	RATE	EXTENSION	
Surveying	11	no	1000	\$11,000.00	
POWER	600	M	50	\$30,000.00	
PHONE CABLE	600	no	30	\$18,000.00	
TRANSFOR (estimate)		SUM	20000	\$0.00	
Pilla boxes	11	no	600	\$6,600.00	
CONDUIT	180	M	10	\$1,800.00	
				Sub Total	\$67,400.00
				GST	\$8,425.00
				NETT	\$75,825.00

APPENDIX G

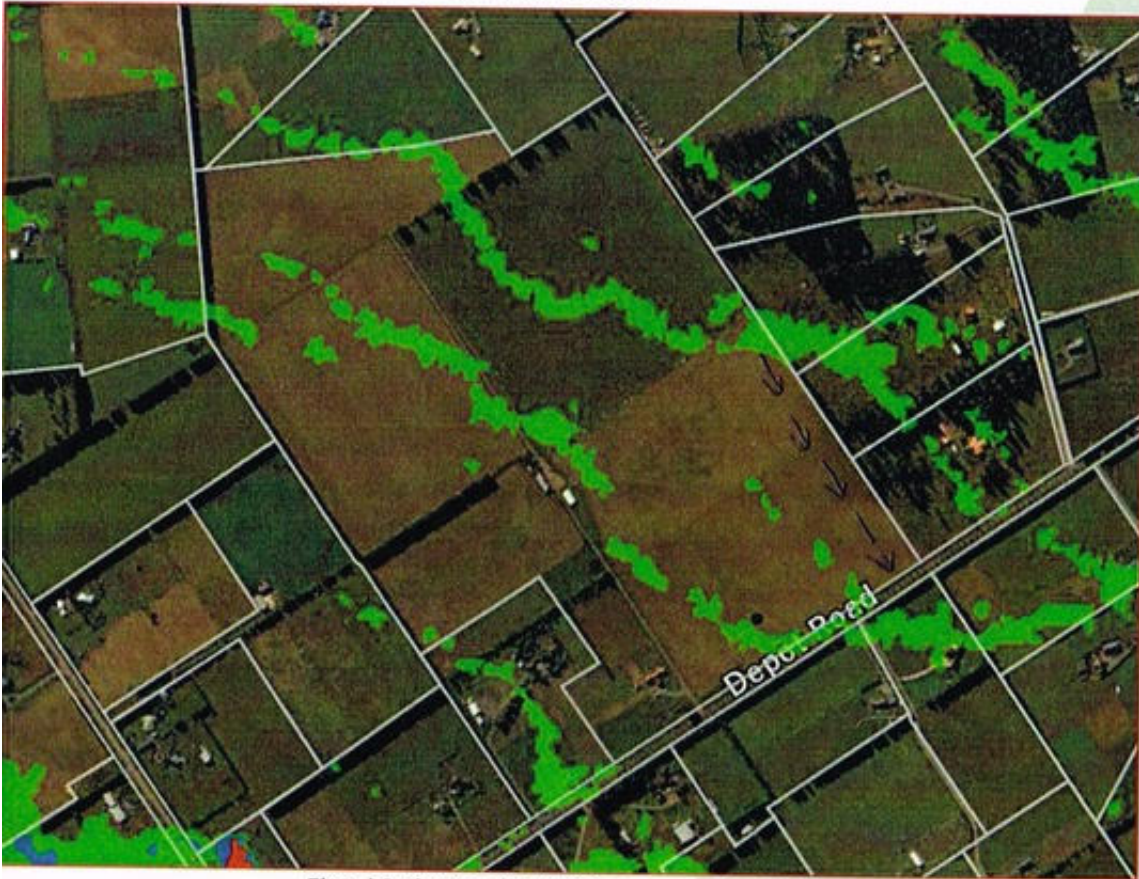
	m		\$0.00
	m		\$0.00
Sub Total			\$0.00
GST			\$0.00
NETT			\$0.00

ROADING	QUANTITY	UNIT	RATE	EXTENSION
Undercutting to 275mm	683.1	m3	12	\$8,197.20
200mm base course	717.6	m3	45	\$32,292.00
100mm AP20 M/4 to road	358.8	m3	75	\$26,910.00
Preparation & Seal (2 coat)	1500	m2	25	\$37,500.00
MAIN ROAD ALIGNMENT	1	NO	25000	\$25,000.00
				\$0.00
				\$0.00
Sub Total				\$129,899.20
GST				\$16,237.40
NETT				\$146,136.60

FENCING	QUANTITY	UNIT	RATE	EXTENSION
5 WIRE FENCE	4800	M	15	\$72,000.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
Sub Total				\$72,000.00
GST				\$9,000.00
NETT				\$81,000.00

MAIN ENTRY STRUCTURE	QUANTITY	UNIT	RATE	EXTENSION
CULVERT		NO	10000	\$0.00
COLUMNS		NO	5000	\$0.00
TIMBER WORK		NO	7500	\$0.00
SHAPING AND SEAL	1	NO	12500	\$12,500.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
Sub Total				\$12,500.00
GST				\$1,625.00

APPENDIX H



Flood Risk Map for WDC – green = low risk.









WAIMAKARIRI
DISTRICT COUNCIL

215 High Street
Private Bag 1005
RANGIORA 7440
New Zealand

Phone: (03) 311 8900
or: (03) 327 6834
Fax: (03) 313 4432

BUILDBEST CONSTRUCTION LTD
685 DEPOT ROAD
RD
OXFORD

GST Number: 55-188-688
Invoice Date: 26/09/11
Customer No: RC065655

Tax Invoice 44021

Quantity	Description	Rate	Amount
	VALUATION NUMBER: 2154012703 LOCATION: 679 DEPOT ROAD		
	RESERVES CONTRIBUTION CASH		2,853.15 *
	WATER		839.83 *
	FC OXFORD NO.1		749.64 *
	ROADING CONTRIBUTION		7,194.59 *
	ROADING		1,990.65 *
	COMMUNITY POOL		200.10 *
	(* Incl GST \$1,803.64)		
		Total	\$13,827.96

APPENDIX L

(Please detach and return this portion with your payment)

REMITTANCE ADVICE

Address Payment to:
WAIMAKARIRI DISTRICT COUNCIL
PRIVATE BAG 1005
RANGIORA 7440
BUILDBEST CONSTRUCTION LTD
685 DEPOT ROAD
RD
OXFORD

Customer No.: RC065655
Invoice No.: 44021
Total Due: \$13,827.96

Amount Enclosed:

Internet banking:
Please pay to the Council's bank account 01 0877 0129222 00 and quote your customer number as the reference.



WAIMAKARIRI
DISTRICT COUNCIL

APPENDIX M

215 High Street
Private Bag 1005
RANGIORA 7440
New Zealand

Phone: (03) 311 8900
or: (03) 327 6834
Fax: (03) 313 4432

Buildbest Construction Ltd
685 Depot Road
Rd
Oxford

GST Number: 55-188-688
Invoice Date: 13/03/13
Customer No: RC065655

Tax Invoice 79754

Quantity	Description	Rate	Amount
	LOCATION: 679 Depot Road Oxford		
	Reserves Contribution Cash		5,706.30 *
	Water		2,612.80 *
	Financial C Oxford No1		2,338.48 *
	Roading Financial C		12,568.90 *
	Roading		3,981.30 *
	Community		400.20 *
	(* Incl GST \$3,601.04)		
	Total		\$27,607.98

(Please detach and return this portion with your payment)

REMITTANCE ADVICE

Address Payment to:
WAIMAKARIRI DISTRICT COUNCIL
PRIVATE BAG 1005
RANGIORA 7440
Buildbest Construction Ltd
685 Depot Road
Rd
Oxford

Customer No.: RC065655
Invoice No.: 79754
Total Due: \$27,607.98

Amount Enclosed:

Internet banking:
Please pay to the Council's bank account 01 0877 0129222 00 and quote your customer number as the reference.

Submission number #417

1 message

Murray McDowell <buildbest@gmail.com>
To: audrey Benbrook <audrey.benbrook@wmk.govt.nz>

Mon, Sep 25, 2023 at 1:49 PM

Hi Audrey

Further to my last email I would like to submit further evidence APPENDIX N that supports my submission no #417. I attach a map showing my property encirclement by rural lifestyle properties identified in under my sub title A localised Consideration.

I also attach further evidence marked APPENDIX O showing that I did explore lodging a subdivision consent application before the 'immediate legal effect' took place but could not pay the surveyor expected costs so it was not pursued. I choose integrity over personal benefit.

I trust this information can be coupled to my previous emails. Thanks

Kinda regards

Murray Mcdowell

0274375275

2 attachments

PROPOSED NEW APPLICATION.jpeg
137K



MY BLOCK ENCLOSED.pdf
4060K