

Before the Independent Hearing Panel  
Appointed by the Christchurch District  
Council

---

Under the Resource Management Act 1991  
In the matter of a hearing of submissions on Plan Change 14 (Housing and  
Business Choice) to the Christchurch District Plan  
Topic: Residential Zones

---

**Legal submissions on behalf of Cashmere Park Limited, Hartward Investment  
Trust and Robert Brown (Submission ID: 593)**

7 November 2023

---

**Submitter's solicitors:**  
Sarah Eveleigh | Sarah Schulte  
Anderson Lloyd  
Level 3, 70 Gloucester Street, Christchurch 8013  
PO Box 13831, Armagh, Christchurch 8141  
P: + 64 3 379 0037  
E: sarah.eveleigh@al.nz | sarah.schulte@al.nz

**anderson  
lloyd.**

## May it please the Commissioners

- 1 These submissions are provided on behalf of Cashmere Park Limited, Hartward Investment Trust and Robert Brown (the **Submitters**) on Plan Change 14 (Housing and Business Choice) to the Christchurch District Plan (**CDP**).
- 2 The Submitters have a shared vision of a comprehensive, connected, and thoughtfully integrated community within Hendersons and Cashmere catchments.
- 3 The Submitters seek to rezone the below sites (**the Site**) from Residential New Neighbourhood (**RNN**) and Rural Urban Fringe (**RUUF**) zones to Medium Density Residential Zone (**MDR**):
  - (a) 126 Sparks Road (Lot 1 DP 412488)
  - (b) 17 Northaw Street (Lot 2 DP 412488)
  - (c) 36 Leistrella Road (Lot 3 DP 412488)
  - (d) 240 Cashmere Road (Lot 23 DP 3217)
  - (e) 236 Cashmere Road (RS 41613)
  - (f) 200 Cashmere Road (Lot 1 DP 547021)
- 4 The Site (22.8ha) is located within the Hendersons East Outline Development Plan area in Hoon Hay. Part of the Site is zoned residential (RNN), with the land to the north and south zoned RUUF. The Site is surrounded by established residential development on three sides, with rural zoned (RUUF) land to the west of the Site. The Site is readily serviced for stormwater and wastewater, with connection to Council water supply to be confirmed. It is well connected to the surrounding areas for all modes of transport and will be well served by public transport.
- 5 The Officer recommends that the rezoning be rejected on the basis of scope. We understand that this is Council's position in respect of both the RNN and undeveloped RUUF parts of the site, noting that the Council's submission<sup>1</sup> seeks that the part of the RNN zone that has already been developed be zoned MDR.
- 6 It is submitted that the rezoning is within scope of PC14 and that the provision of additional housing supply in an affordable area of Christchurch

---

<sup>1</sup> Submission 751, see Appendix 1 page 48 and Appendix 29

is the most appropriate use of the land, clearly supporting the application of the MDRS, while giving effect to the NPS-UD.

- 7 The following evidence is provided in support of this Submission:
- (a) Jade McFarlane – Urban design
  - (b) Gregory Whyte – Flood modelling
  - (c) Stephany Pandrea – Flooding/Infrastructure
  - (d) Andrew Leckie – Transport
  - (e) Nick Traylen – Geotech
  - (f) Natalie Hampson – Economics
  - (g) Bryan McGillan – Planning

#### **Structure of submissions**

- 8 These legal submissions address the following matters:
- (a) Renaming RNN to FUZ
  - (b) Scope
  - (c) Merits of the rezoning
  - (d) Statutory tests for a plan change
  - (e) Conclusion

#### **"Re-naming" RNN to FUZ**

- 9 Council has identified some areas of the RNN zone which it considers can be rezoned to MDR now (including, via its submission, part of the land within the Site). It otherwise considers that the National Planning Standard equivalent of the RNN is the FUZ, renames existing greenfield RNN zones to FUZ, and concludes that the FUZ land is not a relevant residential zone to which the MDRS are to be applied.<sup>2</sup> The section 32 report also indicates a concern that rezoning to MDR would reduce the weight that could be afforded to ODPs and recognition of site-specific constraints, and so

---

<sup>2</sup> Legal submissions for Christchurch City Council – Residential Zones, at 5.1 – 5.7 and 6.10 – 6.12

proposes zoning to FUZ to enable the effective and efficient development of large greenfield areas.<sup>3</sup>

- 10 The National Planning Standards categorise the FUZ as a "Special purpose zone" and describe it as:

Areas suitable for urbanisation in the future and for activities that are compatible with and do not compromise potential future urban use

- 11 In our submission there are two elements to that description:

- (a) That the area is suitable for urbanisation in the future – that is in contrast to the RNN which is an urban zoning and applies to areas that have been confirmed as being available for urban development now. In many cases, that development is already underway.
- (b) That the area is suitable for activities that are compatible with and do not compromise potential future urban use – this is the "holding pattern" element of the zone, where some limited activities (usually rural) are enabled, but there is a limit on the extent of the development to preclude investment in non-urban activities ahead of the future urbanisation. That is not a feature of the RNN – the land is clearly zoned for residential development, and the zoning serves no other purpose than to enable residential development.

- 12 The RNN portion of the Site is infrastructure ready and no further assessment is required to confirm the suitability of residential use. Staged development is progressing through the RNN zone. For these reasons, the RNN area should be identified as a relevant residential zone and the MDRS applied.

- 13 At a practical level we also note that rezoning areas that have been recently developed to MDR is unlikely to provide significant additional housing capacity or choice because the existing housing stock impacts commercial feasibility. A decision not to identify greenfield RNN areas as MDR precludes the application of the MDRS in locations where it can more realistically and feasibly be achieved, in a more timely and efficient manner than would be the case in developed residential areas. In our submission, identifying the RNN as FUZ offends against the purpose and intent of the Amendment Act and the MDRS, to enable housing capacity and choice.

---

<sup>3</sup> Section 32 Report, Part 6, Subdivision, Development and Earthworks at 2.2.5 and 5.3.3

## Scope

- 14 Issues of scope have been addressed in detail through the submissions of others<sup>4</sup> and through the hearings to date. We have sought to limit restatement of the relevant provisions of the RMA and NPS-UD in reliance on those previous submissions.

### *Intensification Planning Instrument*

- 15 With regard to the scope of an IPI, section 80E provides that an IPI means a change to a district plan (emphasis added with underline):
- (a) That must:<sup>5</sup>
    - (i) incorporate the Medium Density Residential Standards (**MDRS**); and
    - (ii) give effect to policies 3 and 4 of the National Policy Statement for Urban Development (**NPS-UD**); and
  - (b) That may<sup>6</sup> also include, relevantly, related provisions including objectives, policies, rules, standards and zones that support or are consequential on the MDRS and policies 3 and 4 of the NPS-UD.
- 16 Section 80G(1)(b) provides that a council must not use the IPI for any purpose other than the uses specified in section 80E.
- 17 We agree with Council's submission that the combined effect of sections 80E and 80G(1)(b) is that the Panel must be satisfied that the proposed amendment expressly falls within one of the subsections of section 80E of the RMA.<sup>7</sup>
- 18 In respect of the scope for "related provisions" under section 80E, in our submission rezoning of rural land to support application of the MDRS is clearly within the scope of an IPI. As detailed below, it is the Submitter's evidence that rezoning of the Site will support application of the MDRS to the area currently zoned RNN and achieves the MDRS Objective 1 for a well-functioning urban environment. It is also consistent with the approach taken in other districts, to rezone land through an IPI.

---

<sup>4</sup> Including: Opening Legal submissions for CCC – Strategic Overview Hearing, dated 3 October 2023, at paragraphs 2.10-2.25 and 2.79-2.82.

<sup>5</sup> Section 80E(1)(a)

<sup>6</sup> Section 80E(1)(b)

<sup>7</sup> Opening Legal submissions for CCC – Strategic Overview Hearing, dated 3 October 2023, at paragraphs 2.54.

## Scope of PC14

- 19 Council relies<sup>8</sup> on the *Clearwater / Motor Machinists* tests for the scope of a plan change, that:
- (a) First, the submission must reasonably fall within the ambit of the plan change by addressing a change to the status quo advanced by the proposed change.
  - (b) Second, the decision-maker should consider whether there is a real risk that persons potentially affected by changes sought in a submission have been denied an effective opportunity to participate in the decision making process.<sup>9</sup>
- 20 We also identify that incidental or consequential extensions of zoning changes proposed in a plan change are permissible, provided that no substantial further section 32 analysis is required.<sup>10</sup> It is also noted that section 32 is amenable to "submissional challenge" and there is no presumption that the provisions of the proposed plan are correct or appropriate on notification.<sup>11</sup>
- 21 The Environment Court has also noted that the fact a rezoning request does not fall within the area of a proposed plan change does not, in and of itself, make the submission out of scope.<sup>12</sup> The Court observed that an example of a permissible, consequential change could be the rezoning of land adjacent to land proposed to be rezoned by a plan change.<sup>13</sup>
- 22 In our submission, the usual approach to scope needs to be considered in the context of the planning process. In *Albany North Landowners v Auckland Council*, the High Court indicated that a full district plan review context would necessarily result in a broader lens when it came to scope. In particular, a section 32 report will not fix the final frame of the instrument as a whole, and is therefore not determinative of scope.

---

<sup>8</sup> Opening Legal submissions for CCC – Strategic Overview Hearing, dated 3 October 2023, at paragraph 2.82.

<sup>9</sup> *Palmerston North City Council v Motor Machinists Limited* [2013] NZHC 1290 at [90]; *Clearwater Resort Limited v Christchurch City Council* HC Christchurch AP34/02, 14 March 2003.

<sup>10</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [81].

<sup>11</sup> *Albany North Landowners v Auckland Council* [2017] NZHC 138 at [132].

<sup>12</sup> *Well Smart Investment Holding (NZQN) Ltd v Queenstown Lakes District Council* [2015] NZEnvC 214 at [24].

<sup>13</sup> *Tussock Rise Ltd v Queenstown Lakes District Council* [2019] NZEnvC 111 at [69],[76]; With reference to *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290.

23 This has also been recognised by the Auckland IHP Panel,<sup>14</sup> which identified the following principles that apply to determining whether a submission is "on" a plan change:

(a) A determination as to scope is context dependent and must be analysed in a way that is not unduly narrow. In considering whether a submission reasonably falls within the ambit of a plan change, two things must be considered: the breadth of alteration to the status quo proposed in the plan change; and whether the submission addresses that alteration.

(b) For relatively discrete plan changes, the ambit of the plan change (and therefore the scope for submissions to be "on" the plan change) is limited, compared to a full plan review (i.e., the proposed AUP process in *Albany Landowners* which we address below) which will have very wide ambit given the extent of change to the status quo proposed.

(c) The purpose of a plan change must be apprehended from its provisions (which are derived from the section 32 evaluation), and not the content of its public notification.

24 While this is not a full district plan review, it is relevant that:

(a) The scope of an IPI is broad. The process was introduced through the Amendment Act, with the broad purpose of increasing housing supply and allowing a wider variety of homes to be built.<sup>15</sup>

(b) The ambit of PC14 is also broad and complex, "in essence, setting out a much bigger building envelope for the city".<sup>16</sup> It applies to, and amends CDP provisions for, extensive areas of the City in a way that (for the most part) increases the enablement of housing. It introduces new residential zones, rezones some areas (eg from industrial to mixed use), and introduces an array of qualifying matters and new standards.

(c) As Council acknowledges in the section 32 report, while the NPS-UD is directive as to **what** is to be "enabled" (such as in Policy 3), the document does not clarify **how** local authorities are to "enable" these

---

<sup>14</sup> Auckland IHP PC78 – Interim Guidance on matter of statutory interpretation and issues relating to the scope of the relief sought by some submissions – 12 June 2023

<sup>15</sup> Schedule 3A, clause 6 Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021.

<sup>16</sup> Summary Statement of Evidence of Sarah Oliver at paragraph [11].

outcomes.<sup>17</sup> There are two aspects ...**the first being around the spatial extent of enablement, principally given effect through zoning** and associated provisions relating to density and height. The second aspect of enablement is in relation to the requirement for resource consent.<sup>18</sup> Housing affordability issues are complex, with many potential mechanisms to address affordability being beyond the realm of a District Plan. **What is within the influence of the District Plan, is where the highest densities are enabled, to what spatial extent, and the appropriate design controls to ensure matters of quality, not just quantity, are well addressed.**<sup>19</sup>

- (d) Specifically, and consistent with the requirements of the MDRS, PC14 introduces new objectives and policies into the CDP, including:

3.3.7 Objective – a well-functioning urban environment that enables all people and communities to provide for their social, economic, and cultural wellbeing, and for their health as safety, now and into the future...

- (e) In our submission, that is critical to the assessment of scope. The objectives of a plan change play a fundamental role in setting the scope of that plan change and the matters which ought to be addressed in the section 32 assessment. The provisions advanced must be the most appropriate to achieve the objectives, having been assessed against other reasonably practicable options.<sup>20</sup> They must also meet the statutory requirement to give effect to the NPS-UD.

25 We submit that the relief sought is within scope because:

- (a) The RNN is properly assessed as a relevant residential zone. Absent a qualifying matter, the MDRS must be implemented. PC14 achieves this by way of rezoning to MDR;
- (b) Rezoning of the surrounding RUUF land to MDR:
- (i) Occurs within the context of a legislative framework that provides broad scope for amendment to District Plans and enables the creation of new residential zones (including

---

<sup>17</sup> Section 32 report, Part 1, Introduction, Issues and Strategic Direction at paragraph 2.3.2.

<sup>18</sup> Section 32 report, Part 1, Introduction, Issues and Strategic Direction at paragraph 2.3.3.

<sup>19</sup> Section 32 report, Part 1, Introduction, Issues and Strategic Direction at paragraph 3.2.12.

<sup>20</sup> Section 32(1)(b)



rezoning of rural land). A broader approach to scope is therefore appropriate.

- (ii) Occurs within a process that enables the Panel to make decisions beyond the scope of submissions.<sup>21</sup> Although that relates to the scope of the Panel's decision, rather than the scope of what may be sought in a submission, it reinforces the broader approach to scope to be taken through an IPP.
- (iii) Sits within a Site that includes residentially zoned land that is currently being developed, and is surrounded on three sides by residentially zoned land. Zoning within the RNN portion of the Site is clearly a matter addressed by PC14. This enables consideration of incorporation of adjacent areas within the zone;
- (iv) The relief sought is the most appropriate to achieve the new objectives introduced by PC14. The MDR zoning, coupled with ODP guiding development, is in line with Council's submission and outcome sought for PC14 – "density done well". As discussed below, the Site would make an important contribution to housing capacity and choice in this location. In addition, rather than providing for a rather oddly shaped "finger" of urban development that would lack connectivity with surrounding residential areas and has the potential to result in poorer outcomes on eventual rezoning of the RUUF portion of the Site, rezoning the full site now would enable development of MDR that is efficient, integrated and connected both internally and with the surrounding residential areas.
- (v) The rezoning gives effect to the NPS-UD, particularly objectives 1, 3 and 6 and policies 1, 3 and 4 (as discussed further below).

26 In our submission, these factors are also relevant to the issue of prejudice to would be submitters. In the context of a planning process that effects extensive changes across the City, this rezoning relates to connection of existing residentially zoned land, the majority of which is proposed as MDR. Affected parties (if any) have had the opportunity to comment on the proposed rezoning by way of further submission.<sup>22</sup>

---

<sup>21</sup> Schedule 1, Clause 99(2) Resource Management Act 1991.

<sup>22</sup> *Palmerston North City Council v Motor Machinists Limited* [2013] NZHC 1290 at [90]; *Clearwater Resort Limited v Christchurch City Council* HC Christchurch AP34/02, 14 March 2003.

### *Officer's recommendation*

- 27 The Officer's Report recommends that the rezoning be rejected because:<sup>23</sup>
- (a) the rezoning from RUUF to MDR is out of scope;
  - (b) rezoning from FUZ to MDR, concerns a largely undeveloped greenfield area, so the provisions of the FUZ are the more efficient and effective method to achieve the relevant objectives of the CDP. The Officer also comments that there is currently insufficient information to confirm whether the MDR could provide an advantageous and appropriate framework for managing urban development and ongoing land use in this area
- 28 The Officer provides only limited assessment of the merits of the rezoning on the basis that it is out of scope. In relation to flood management, the Officer notes that the submission does not provide detailed information exploring how stormwater and flooding might need to be addressed in developing the site under the MDR.<sup>24</sup>
- 29 The evidence now provided on flood modelling and infrastructure responds to the Officer's comments regarding the need for detailed information exploring how stormwater and flooding might need to be addressed in developing the site under the MDR.<sup>25</sup> Similarly, urban design, transport and infrastructure evidence answers the Officer's call for detail on integrated well connected development, comprehensive planning of development with open space and movement networks, effective and efficient infrastructure servicing, and emphasis on quality and design of neighbourhoods in policies and rules.

### **Merits of the rezoning – key issues**

#### *Urban design*

- 30 Mr McFarlane's view is that MDR, together with an ODP to guide development on the Site, provides a holistic urban design framework that is anticipated will enable a high-quality built environment and enhanced landscape, appropriate to the Site and its context.<sup>26</sup>

---

<sup>23</sup> Section 42A Report – Ian Bayliss, dated 11 August 2023, at paragraph 8.8.18.

<sup>24</sup> Section 42A Report – Ian Bayliss, dated 11 August 2023, at paragraph 8.8.17.

<sup>25</sup> Section 42A Report – Ian Bayliss, dated 11 August 2023, at paragraph 8.8.17.

<sup>26</sup> Evidence of Jade McFarlane, dated 20 September 2023, at paragraph [10].

- 31 Development in accordance with the ODP will deliver a range of benefits, including:<sup>27</sup>
- (a) A cohesive urban form with high accessibility to the adjoining urban fringe;
  - (b) High amenity, safe, open space areas and streets with enhancement of landscape values;
  - (c) Recreational and active transport benefits that align with the goal of a pedestrian orientated development and align with the existing ODP in the CDP.
- 32 Mr McFarlane sees the benefits of rezoning now, through this process given the land owners have partnered to put forward a comprehensive proposal. Alternatives such as the status quo on the marginal rural land, rural residential at 4ha allotments, or the retention of the narrow RNN (or FUZ) strip effectively isolating two existing communities as is currently the case, would be a lost opportunity to enable housing where it can be located and serviced appropriately, and comprehensively, in a manner aligned with the directives of the NPS-UD.<sup>28</sup>

### *Flooding*

- 33 The site is naturally low lying. Development of the site will involve filling to ensure that the future dwelling finished floor levels will be a minimum of 400mm higher than the 0.5% (200-year) Annual Exceedance Probability storm event flood depth. Accordingly, residential use of the site is appropriate with regard to flood risk.<sup>29</sup>
- 34 Compensatory storage will be provided within the stormwater management areas to accommodate waters displaced by filling.<sup>30</sup> Eliot Sinclair have modified the compensatory storage basins to address Mr Norton's general comments regarding stormwater and flooding management.<sup>31</sup> DHI have re-run the flood model with the updated compensatory basins and the flood modelling results demonstrate that, with the compensatory storage, the proposed development has minimal impact on the surrounding flood levels.

---

<sup>27</sup> Evidence of Jade McFarlane, dated 20 September 2023, at paragraph [11].

<sup>28</sup> Evidence of Jade McFarlane, dated 20 September 2023, at paragraph [74].

<sup>29</sup> Evidence of Stefana Pandrea, dated 20 September 2023, at paragraph [42].

<sup>30</sup> Evidence of Stefana Pandrea, dated 20 September 2023, at paragraph [40].

<sup>31</sup> Evidence of Robert Norton, dated 11 August 2023, at paragraphs [4]-[6] and [49]-[50].

- 35 Providing for rezoning of the entire site has benefits in enabling an integrated assessment of flood risk effects and necessary mitigation across the site. Stormwater basins can be located in positions, across the site, that make sense topographically and are in proximity to the discharge point locations.<sup>32</sup>

### *Infrastructure*

- 36 A medium density residential development on the Site can be serviced for wastewater and stormwater, subject to preliminary and detailed design in conjunction with appropriate Council approvals and consents being obtained. Council is currently carrying out water supply modelling and will provide confirmation of the council network pipes required to be upsized to service the development site.
- 37 From an infrastructure servicing perspective, there are benefits<sup>33</sup> in rezoning the entire site now in terms of the required and optimal location and sizing of infrastructure suitable for comprehensive development of the entire site.

### *Transport*

- 38 Mr Leckie considers that the development will be well connected to the surrounding areas for all modes of transport, will be well served by public transport and will have a negligible impact on the arterial road network.<sup>34</sup>
- 39 The revised ODP allows for Northaw Street and Leistrella Road to extend into the Site, a new local road intersection on Cashmere Road and a connection to the zoned residential land west of the Site.
- 40 The ODP includes a network of pedestrian / cycle links, including off-road recreational routes through the stormwater management areas, a connection via the existing access leg to the Quarryman's Trail Cycleway on Sparks Road, and other connections to Kaiwara Street and Cashmere Road.<sup>35</sup> The ODP text includes provision for safe and accessible pedestrian routes from the Site to and across Hoon Hay Road.<sup>36</sup>
- 41 Mr Leckie considers that the Site is well-located for public transport uptake, with most of it within an 800m walk of one of the high-frequency Orbiter bus

---

<sup>32</sup> Evidence of Stefana Pandrea, dated 20 September 2023, at paragraph [16].

<sup>33</sup> Evidence of Stefana Pandrea, dated 20 September 2023, at paragraph [17].

<sup>34</sup> Evidence of Andrew Leckie, dated 20 September 2023, at paragraph [66].

<sup>35</sup> Evidence of Andrew Leckie, dated 20 September 2023, at paragraph [23]-[24].

<sup>36</sup> Evidence of Andrew Leckie, dated 20 September 2023, at paragraph [28].

service bus stop pairs on Rose Street or Hoon Hay Road. Two other bus services nearby provide alternative connections to the nearby Barrington Mall and other destinations.<sup>37</sup>

- 42 While strictly there could be a small part of the Site beyond the 800m walking distance from an Orbiter bus stop, Mr Leckie's view is that the Low Public Transport Accessibility (**LPTA**) overlay would not need to apply to this area. Objectives 3 and 8 are related to the location of development relative to public transport services and reducing reliance on private vehicle travel. He considers the overall accessibility is consistent with the transport related objectives and policies of the NPS-UD.<sup>38</sup> Mr Leckie notes that similar exceptions have been applied to other sites.<sup>39</sup>
- 43 Mr Leckie considers that the development in accordance with the proposed ODP will be well-connected with the surrounding residential areas and transport network, including significantly the Quarryman's Trail Cycleway on Sparks Road. Overall it will result in a more consolidated and well-connected local transport network for all travel modes than the existing zoning.<sup>40</sup>

#### **ODP text**

- 44 The Submitters have revised the ODP text to reflect the MDR, to be incorporated within the provisions of PC14.
- 45 In our submission, the ODP method remains appropriate to provide for the integrated development of the Site, and does not offend against the Amendment Act's restrictions on modification of the MDRS.<sup>41</sup> Instead the retention of an ODP supports the overall objective of the NPS-UD, assisting with providing a well-functioning urban environment.
- 46 We note that ODPs have routinely been applied to areas subject to the MDRS, including through the Selwyn IPI process which zoned rural land to MDRS with ODP provisions.

---

<sup>37</sup> Evidence of Andrew Leckie, dated 20 September 2023, at paragraph [29].

<sup>38</sup> Evidence of Andrew Leckie, dated 20 September 2023, at paragraph [28].

<sup>39</sup> As discussed in Ike Kleynbos Section 42A Report at paragraph [7.1.90].

<sup>40</sup> Evidence of Andrew Leckie, dated 20 September 2023, at paragraph [61].

<sup>41</sup> Section 77G Resource Management Act 1991.

## Statutory tests

- 47 I adopt Council's legal submissions<sup>42</sup> on the legal tests that must be applied when the Panel considers and makes recommendations on PC14, with reference to *Colonial Vineyards v Marlborough District Council*.<sup>43</sup>
- 48 It is submitted that the proposed rezoning to MDR will:
- (a) Accord with and assist Council in carrying out its functions, including:
    - (i) Achieving integrated management of effects of the use, development and protection of land and associated natural and physical resources;
    - (ii) Ensuring that there is sufficient development capacity in respect of housing and business land to meet the expected demands of the district; and
    - (iii) Controlling any actual or potential effects of the use, development, or protection of land, including for the purposes of the avoidance of natural hazards;
  - (b) Have regard to the actual and potential effects on the environment, including in particular any adverse effect;
  - (c) Accord with Part 2 of the Act;
  - (d) In respect of the existing statutory documents:
    - (i) Give effect to any national policy statement or operative regional policy statement;
    - (ii) Have regard to any proposed regional policy statement, and management plans and strategies prepared under any other Acts;
    - (iii) Have regard to the extent to which the plan is consistent with the plans of adjacent territorial authorities; and
    - (iv) Establish the most appropriate method for achieving the objectives and policies of the District Plan, undertaking the assessment detailed in section 32.

---

<sup>42</sup> Opening Legal submissions for CCC – Strategic Overview Hearing, dated 3 October 2023, at paragraphs 2.1-2.9.

<sup>43</sup> *Colonial Vineyards v Marlborough District Council* [2014] NZEnvC 55 at [17].

49 We address key matters in turn below.

### **Assist Council in carrying out its functions**

50 Potential effects on the environment are addressed in the evidence provided and can be appropriately managed through the MDRZ provisions, including the amended ODP text. The development can be readily serviced and provision is made for connectivity with existing and anticipated surrounding development.

51 Evidence concludes that there will be a shortfall in available residential capacity in the medium term.<sup>44</sup> The Site would contribute to meeting that shortfall, in a way that appropriately manages effects.

### **Statutory planning assessment**

#### *National Policy Statement for Urban Development*

52 An IPI must give effect to intensification policies 3 and 4 of the NPS-UD, but PC14 must also give effect to the NPS-UD as a whole.

53 The NPS-UD is designed to improve responsiveness,<sup>45</sup> and recognises the national significance of:

- (a) having well-functioning urban environments that enable all people and communities to provide for their social, economic and cultural wellbeing, and for their health and safety, now and in the future;<sup>46</sup> and
- (b) providing as a minimum sufficient development capacity at all times to meet the different needs of people and communities.<sup>47</sup>

54 The rezoning supports a well-functioning urban environment. It will provide housing capacity to meet an identified shortfall. The Site can be readily serviced and is largely surrounded by urban development. The location provides good walking and cycling accessibility between housing, employment, community services and open spaces, which in turn supports reductions in greenhouse gases. It gives effect to, and advances the objectives and policies of, the NPS-UD.

---

<sup>44</sup> Evidence of Natalie Hampson, dated 20 September 2023 at [24].

<sup>45</sup> Objective 6 and Policy 8 NPS-UD 2020.

<sup>46</sup> Objective 1 NPS-UD 2020.

<sup>47</sup> Such as type, price and location of households in accordance with definition of Well-functioning Urban Environment is defined in Policy 1 NPS- UD; Policy 1(a)(i) referenced in this statement.

*National Policy Statement for Highly Productive Land*

- 55 The National Policy Statement for Highly Productive Land 2022 (**NPS-HPL**) provides additional requirements for urban rezoning of highly productive land. The Site is a combination of Land Use Class (**LUC**) 2 and 3 soils, so that the portion of the site that is zoned RUUF meets the interim definition of highly productive land (**HPL**) in the NPS-HPL.
- 56 Tier 1 territorial authorities may allow urban rezoning of highly productive land only if:<sup>48</sup>
- (a) the urban rezoning is required to provide sufficient development capacity to meet demand for housing or business land to give effect to the National Policy Statement on Urban Development 2020; 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 environmental, social, cultural and economic benefits of rezoning outweigh the long-term environmental, social, cultural and economic costs associated with the loss of highly productive land for land-based primary production, taking into account both tangible and intangible values
- 57 There is an assessed shortfall of housing capacity (with PC14 applied) in the local catchment in the medium-term. Ms Hampson confirms an estimated shortfall of around -120 dwellings over the medium term, increasing to a shortfall of around -7,100 by 2053, assuming no further changes in zoning.<sup>49</sup> This means that the proposal satisfies clause 3.6(1)(a) by meeting a medium term shortfall.<sup>50</sup>
- 58 Clause 3.6(1)(b) is also considered to be satisfied. There are no other reasonably practical and feasible options to provide sufficient capacity in the same locality and market while achieving a well-functioning environment and avoiding HPL. The capacity estimates already include application of MDRS intensification (which yields limited feasible capacity in the catchment over the medium-term, suggesting that further

---

<sup>48</sup> Clause 3.6(1) of NPS-HPL 2022.

<sup>49</sup> Evidence of Natalie Hampson, dated 20 September 2023, at [24].

<sup>50</sup> Evidence of Natalie Hampson, dated 20 September 2023, at [36].



intensification is not feasible in this location and greenfield development is needed to help meet demand).<sup>51</sup>

- 59 The Site exhibits physical constraints to productive use (namely high ground water and reverse sensitivity from adjoining residential activity). As such, it is currently used for only low intensity grazing of a small number of cattle (for a portion of each year) and the grazing of some horses. Its long-term productive output is considered very low, and well below its economic value as urban land.<sup>52</sup>
- 60 Ms Hampson's evidence is that the rezoning of the Site to MDR will enable residential urban growth in southern Christchurch by unlocking one of the optimal feasible areas of greenfield land.<sup>53</sup>
- 61 At a potential yield of 336-420 additional dwellings, the Site could make a material contribution to feasible catchment dwelling capacity<sup>54</sup>and would help address a shortfall of housing capacity to meet projected demand over the medium-term and into the long-term.<sup>55</sup>
- 62 With the catchment being one of the relatively more affordable areas within Christchurch, the development enabled by rezoning would not only increase the supply of affordable houses (in the context of Christchurch), but also help ensure that the wider catchment remains a relatively affordable area by not constraining supply and driving up prices.<sup>56</sup>
- 63 Overall, the rezoning of the Site generates a range of economic benefits and limited (and lesser) economic costs. Specifically, economic benefits associated with providing feasible and relatively more affordable housing capacity in a location of proven demand and a shortfall of capacity in a way that supports the efficiency of existing urban infrastructure, and with only minor costs associated with the loss of marginal productive land. This satisfies clause 3.6(1)(c).

---

<sup>51</sup> Evidence of Natalie Hampson, dated 20 September 2023, at [38].

<sup>52</sup> Evidence of Natalie Hampson, dated 20 September 2023, at [36].

<sup>53</sup> Evidence of Natalie Hampson, dated 20 September 2023, at [10].

<sup>54</sup> Evidence of Natalie Hampson, dated 20 September 2023, at [32].

<sup>55</sup> Evidence of Natalie Hampson, dated 20 September 2023, at [32].

<sup>56</sup> Evidence of Natalie Hampson, dated 20 September 2023, at [33].

## *Regional Policy Statement*

- 64 The proposed FUZ land (currently RNN) is identified in the Canterbury Regional Policy Statement (**CRPS**) as a Greenfield Priority Area.<sup>57</sup> Rezoning to MDR across the remainder of the Site would not accord with the CRPS direction for development in accordance with Map A. However, it is the most efficient use of the land, and responds to the current circumstances at Hoon Hay as the NPS-UD requires.
- 65 Notably, the CRPS pre-dates the NPS-UD, and the Map A approach does not achieve the NPS-UD direction for responsive planning to provide sufficient capacity for residential development. . In our submission a departure from the CRPS direction in relation to Map A for this Site is warranted to give effect to the NPS-UD.
- 66 Mr McGillan has otherwise assessed the rezoning against the remaining relevant objectives and policies of the CRPS, finding it is mostly consistent with the objectives and policies in Chapter 6 of the CRPS. He acknowledges that while the Site is not located within an identified development area or within the projected infrastructure boundary in Map A, it is a logical site for rezoning as a portion of the Site is within a projected infrastructure boundary within Map A.<sup>58</sup>

### **Is rezoning to MRZ the most appropriate PC14 outcome?**

- 67 The evidence confirms that rezoning to MDR is the most appropriate PC14 outcome, as it:
- (a) will contribute development capacity to assist in meeting the demand for housing in an affordable part of Christchurch in the medium term;
  - (b) enables development that is in an accessible location, readily accessible to public transport, which can be accommodated within the existing and proposed roading network;
  - (c) enables development that can be readily serviced by infrastructure, including potential flood management through careful stormwater design, with only water supply to be confirmed;
  - (d) is located amongst established residential development and provides good accessibility between housing, jobs, community services and open spaces, which in turn supports reductions in greenhouse gases.

---

<sup>57</sup> Ian Bayliss section 42A Report, Figure 13

<sup>58</sup> Evidence of Bryan McGillan, dated 20 September 2023, at [38].

68 For these reasons and having regard to the wider assessments addressed through these submissions, and evidence for the Submitters, it is submitted that MDR is the most appropriate option for the Site and should be accepted.

Dated 7 November 2023

A handwritten signature in black ink, appearing to read 'S Eveleigh', written in a cursive style. The signature is positioned above a horizontal line.

---

Sarah Eveleigh / Sarah Schulte  
Counsel for Cashmere Park Limited, Hartward Investment Trust and Robert  
Brown