

**BEFORE THE INDEPENDENT HEARINGS PANEL  
AT SELWYN DISTRICT COUNCIL**

**UNDER**

the Resource  
Management Act 1991

**IN THE MATTER**

Submissions and further  
submissions on the  
proposed Selwyn District  
Plan

**AND**

**Hughes Development  
Limited** (DPR-0411)

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**JOINT WITNESS STATEMENT**

Planning

Hearing 30.6: Rezone – West Melton

2 March 2023

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## Background

1. This Joint Witness Statement (**JWS**) relates to the submission by Hughes Developments Limited (**HDL**) on the Proposed Selwyn District Plan (**PDP**) (DPR-0411) seeking that land located at 163 Halkett Road and 1066 West Coast Road, West Melton (the **Site**) be rezoned from General Rural (as notified) to General Residential.
2. At the request of HDL, the Panel issued directions for expert witness conferencing between the planning, urban design, economics and traffic experts for Selwyn District Council (**SDC**) and HDL.
3. This JWS relates to planning matters.
4. Joint witness conferencing between HDL and SDC's planning experts (Mr Brown and Mr Friedel) took place over the week commencing 27<sup>th</sup> February, with the final and most substantive conferencing occurring on Wednesday 1 March and Thursday 2 March.
5. This joint statement has been prepared in accordance with sections 9.4 and 9.5 of the Environment Court Practice Note 2023, which relates specifically to expert conferencing. The attendees confirm they have read, and agree to abide with, the updated Code of Conduct for Expert Witnesses included in Section 9 of the Environment Court Practice Note 2023.

## Information and Methodology

6. Mr Friedel and Mr Brown confirm that the basis for their conferencing has been all material submitted in relation to the HDL rezoning submission (DPR- 0411), including the final signed JWS prepared by the respective Urban Design, Transport and Economic expert witnesses.
7. Mr Friedel and Mr Brown are largely in agreement around the consistency of the rezoning submission with the Rezoning Framework and the NPS-UD 'gateway' test in respect of Policy 8 and demonstrating that the rezoning will contribute to a well-functioning urban environment.

8. In terms of the application of the NPS-HPL, Mr Friedel is adopting the findings of the Adderley Head legal opinion dated 14 February 2023 prepared in response to Panel Minute 38 and is of the opinion that the rezoning submission is not exempt from the NPS-HPL. This differs from the position of Mr Brown who remains of the opinion that the rezoning is exempt from the NPS-HPL.
9. Areas where either some differences occur, or further evidence and clarification was required have been isolated to the following:
  - **Transportation**
  - **ODP**
  - **Density**
  - **Greenhouse Gas Emissions**
  - **Housing Capacity**
10. The focus of conferencing discussions between Mr Brown and Mr Friedel has been limited to the matters above and any subsequent implications on the appropriateness of the rezoning submission in terms of the NPS-UD and NPS-HPL.

### **Areas of Agreement**

#### ***Transportation***

11. Mr Friedel and Mr Brown have confidence that the expert transport witnesses have reached agreement. This includes agreement that a pedestrian connection along the SH73 frontage is not required.
12. Mr Brown confirms that the reinstatement of the shared path along Halkett Road to Wylie's Road is acceptable and the Development Plan will be updated to reflect this.
13. Mr Friedel and Mr Brown agree that the rezoning submission is well-connected to transport corridors and that rezoning will not compromise the safe and efficient operation of the transport network.

### **ODP**

14. Mr Friedel considers that the height of the indigenous planting strip along the northern and eastern boundaries of the site, and the height and width of the SH73 landscaping strip along the southern site boundary should be referenced in the ODP narrative strip. Mr Brown supports this request and seeks leave to provide an updated ODP containing this update, as well as the reinstatement of the shared path detailed in paragraph 12 at the scheduled hearing.
15. All other updates to the ODP plan and narrative to address the amendments that were sought in the s42A report have been incorporated into the ODP contained in Mr Browns rebuttal evidence.

### **Density**

16. Mr Friedel and Mr Brown agree that a minimum density requirement is not required to be incorporated into the Development Plan. The Development Plan will deliver residential outcomes that are consistent with the established character and amenity within West Melton whilst also providing satisfactory variation in lot sizes and rural urban interface treatments. The 8hh/ha minimum net density represents a significant incremental increase from the 6hh/ha densities that are typical in the township to optimise the land, takes appropriate account of site context, while maintaining the amenity that characterises West Melton.
17. This position is consistent with the intent signalled by Selwyn District Council in excluding West Melton from Variation 1 which introduces medium density residential standards in accordance with the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021. It is also consistent with the approach taken within the SDP for maintaining the low-density character of West Melton, where the minimum net densities of 10hh/ha required in CRPS Policy 6.3.7.3 applies to the Greenfield Priority Areas and is given effect to through the Living Z Zone (SDP Objective B4.3.6 and Policy B4.3.8).

### **Greenhouse Gas Emissions**

18. Mr Friedel clarifies his position in the revised statement below:

It is inevitable that the rezoning will increase carbon emissions, at least in the short to medium term. I maintain that the rezoning will only partially give effect to the NPS-UD<sup>1</sup> and CRPS<sup>2</sup> objectives until significant shifts in behaviour, investment in public transport and changes in national policies occur. I do not consider this is sufficient grounds to decline the rezoning request as the required responses are beyond the control of an individual plan change proponent. The request also satisfies the balance of the matters that constitute a well-functioning urban environment under the NPS-UD.

19. For clarification, Mr Friedel is of the position that any greenfield growth outside a metropolitan centre (e.g., outside of Auckland, Hamilton, Wellington or Christchurch City), irrespective of location, will give rise to increased emissions due to reliance on cars powered by internal combustion engines.
20. Mr Brown accepts the position of Mr Friedel at a very high level, however Mr Brown remains of the opinion that the factors included in his rebuttal evidence will support the current and future reduction of greenhouse gas emissions.
21. Mr Brown wishes to clarify that in terms of the NPS-UD and a well-functioning urban environment, the minimum requirement is to support reductions in greenhouse gas emissions (emphasis added).

### **Feasible plan enabled capacity**

22. Mr Brown wishes to confirm he has no confidence in the revised capacity figures supplied in the JWS by Mr Foy. The revised medium term capacity figures are given considerable weight by Mr Foy, however they have been introduced to this process with no accompanying report or methodology as to how they have been calculated.

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<sup>1</sup> NPS-UD Policy 1(e) and (f) and Implementation clause 3.8(2)(a).

<sup>2</sup> CRPS Chapter 6 Objective 6.2.4 & Policy 6.3.4.

23. Mr Friedel considers that the latest feasible plan enabled capacity estimates are relevant information that will assist the panel, while noting that Mr Foy does not provide a methodology of how feasible development capacity has been established. This presents challenges in determining how the short falls have been estimated, particularly in respect to how infill supply (being a component part of the estimated plan enabled capacity) has been determined. Ultimately this reduces the certainty that can be placed on the information provided to date.
24. Mr Friedel and Mr Brown agree that the rezoning submission satisfies the NPS-UD 'gateway' test created by Policy 8 (and Policy 1 in terms of a well-functioning urban environment), even if it is determined that there is a long-term plan enabled capacity shortfall.
25. In addition, Mr Friedel and Mr Brown agree that the rezoning submission satisfies clause 3.6 (1)-(5) of the NPS-HPL which enables the urban rezoning of highly productive land.
26. Mr Brown and Mr Friedel have reached this conclusion because the economic evidence has established there is at least a medium or long-term shortfall of plan enabled, infrastructure ready and feasible supply that needs to be responded to through Clause 3.2 of the NPSUD and that this can be zoned to GRZ under Clause 3.4(1). There is also sufficient evidence to establish that the Clause 3.8 are satisfied. They consider the rezoning can give effect to the objective and policies of the NPS-HPL because the economic experts agree that the rezoning request will meet the relevant criteria (Clause 3.6(1)), following a consideration of a range of reasonably practicable options (Clause 3.6(2)), having established that the additional capacity is within the same locality and market (Clause 3.6(3) and having confirmed that the spatial extent of the rezoning is the minimum necessary to provide the required development capacity (Clause 3.6(5)).
27. Mr Brown and Mr Friedel are aware that the MfE NPS-HPL guidance indicates that Clause 3.6(1) should only be applied where there is

short- or medium-term housing capacity shortfalls<sup>2</sup>. However, they consider that if that was the intent then this should have been stated more clearly in the implementation clause. It also doesn't reflect their understanding that Clause 3.4 of the NPS-UD does not preclude a local authority from zoning land to support short-, medium- and long-term capacity shortfalls. This position is also premised on the view that only a low level of certainty can be placed on Mr Foy's long term plan enabled feasibility estimate at this point in time.

28. Although the absence of supporting evidence makes it difficult to assess the revised capacity figures supplied by Mr Foy in any detail, Mr Brown has identified a number of potential flaws in the figures supplied.
29. Mr Foy has identified future capacity from the HDL rezoning as being 222 households. This is incorrect. There are 124 households proposed. Irrespective of the General Residential zoning (if approved), the contents of the Development Plan preclude further subdivision from being undertaken as a controlled or restricted discretionary activity.
30. In terms of the capacity figures assigned to Wilfield and PC67, these seem to be overstated when compared to the expert evidence of Mr Wheelans which has been prepared in support of the Gillman Wheelans submission to rezone Wilfield and PC67 under the PDP. Paragraph 30 and 32 of Mr Wheelan's evidence illustrates the anticipated future capacity of PC67 and also highlights that Stages 120 of Wilfield have been sold with restrictive covenants that prevent further subdivision up to 31 December 2035.
31. Allied to the potential flaws above and the intensification constraints identified in the rebuttal evidence of Mr Brown and Mr Colegrave, Mr Brown has little confidence that sufficient capacity is available to meet demand in West Melton in the medium term.

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<sup>2</sup> <https://environment.govt.nz/assets/publications/NPS-Highly-Productive-Land-Guideto-implementation.pdf>, Pg 42.

32. In conclusion, Mr Brown and Mr Friedel consider there is sufficient evidence available to support the rezoning. Mr Friedel consequently recommends that the submission is accepted.

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**DATED** this 2nd day of March 2023



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Mark Brown  
Planner engaged by HDL



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Craig Friedel  
Planner engaged by Selwyn District Council