

**IN THE MATTER**

of the Resource Management Act 1991  
("RMA" or "the Act")

**AND**

**IN THE MATTER**

of a hearing of submissions and further  
submissions on the Proposed Central  
Hawke's Bay Council District Plan Review  
(Stream 6 Mapping and Rezoning Requests)

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**STATEMENT OF EVIDENCE OF PHILIP ANTHONY MCKAY  
ON BEHALF OF LIVINGSTON PROPERTIES LIMITED**

Dated 31 October 2022

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## EXECUTIVE SUMMARY

1. This evidence is in support of the submission of Livingston Properties Limited ('Livingston') seeking changes to the Proposed Central Hawke's Bay District Plan ('PDP') Planning Maps to rezone the property at 96 Mt Herbert Road to General Residential Zone (18.7ha), Commercial Zone (0.49ha), Rural Lifestyle Zone (39.1ha), leaving the 84.5ha balance as General Rural Zone (submission point S127.002); and to amend Figure 3 'Waipukurau Growth Direction' of the Urban Form and Development Chapter to reflect the requested rezoning (submission point S127.001).
2. The Stream 6 'Officer's Report: Maps and Rezoning Requests – Volume 2' ('the S42A Report') recommends that submissions S127.002 and S127.001 be rejected.
3. I disagree with the recommendations of the S42A Report for the following reasons:
  - a) In my opinion the Livingston rezoning request is consistent with,
    - i. The Regional Policy Statement
    - ii. The Central Hawke's Bay Integrated Spatial Plan
    - iii. The objectives of the Urban Form & Development Chapter, General Residential Zone and Rural Lifestyle Zone of the PDP
    - iv. The guiding principles for the assessment of rezoning submissions set out in Appendix C of the S42A Report.
  - b) Expert evidence demonstrates that there are no transportation, geotechnical or highly productive land loss issues that prevent the land from being rezoned.
  - c) Expert evidence demonstrates how the rezoning proposal and concept plan will be of community benefit and is the best placed area on the urban fringe of Waipukurau in providing sustainable urban form for future growth.
  - d) In my opinion the Livingston rezoning request is able to meet the criteria under clause 3.6(4)&(5) of the NPS-HPL which would enable LUC 3 land to be rezoned for urban development.
  - e) In my opinion accepting the Livingston rezoning submissions in providing for additional residential development capacity for Waipukurau is consistent with the sustainable management purpose of the RMA.

## **Introduction**

4. My full name is Philip Anthony McKay.
5. I hold a Bachelor of Regional Planning with Honours from Massey University. I am a Member of the New Zealand Planning Institute, currently holding the position of Secretary of the Central North Island Branch of the Institute. In total I have some 29 years' experience as a practicing planner and have a Making Good Decisions Chair's certification.
6. I am currently employed as an Associate at Mitchell Daysh Limited planning consultants, having been employed by that company since November 2016, and having also been a Senior Consultant Planner at Environmental Management Services Limited from September 2015 to November 2016. Prior to this, I held the position of Environmental Policy Manager with the Hastings District Council from January 2009 to September 2015.
7. I held various consents and policy planning roles with Hastings District Council from February 1996 to January 2009 and prior to that was employed as a planner by Wairoa District Council.

## **Code of Conduct for Expert Witnesses**

8. I confirm I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014. My evidence has been prepared in compliance with that Code and I agree to follow it when presenting evidence to the Hearing.
9. I confirm that my evidence is within my area of expertise except where I state that I am relying upon the specified evidence of another person and I have not omitted to consider material facts known to me that might alter or detract from my expressed opinions.

## **Scope of Evidence**

10. I prepared and lodged the submission and further submission to the PDP on behalf of Livingston. In preparing this evidence I have reviewed the relevant portions of the S42A Reports (Volumes 1 and 2) to the Livingston submission addressed in the Stream 6 Maps & Rezoning Requests hearing. I have also reviewed those portions of the officers Right of Reply Report to the Stream 2 hearing relevant to urban growth.

11. The Livingston site at 96 Mt Herbert Road, Waipukurau is zoned General Rural under the PDP. Submission S127.002 requests the rezoning of the western portion of the site fronting Mt Herbert Road to:
  - General Residential Zone (18.7ha)
  - Commercial Zone (0.49ha)
  - Rural Lifestyle Zone (39.1ha)
  
12. This would leave the 84.5ha balance of the site as General Rural Zone. The spatial extent of the rezonings requested are set out in the map attached to the Livingston submission as Appendix 1<sup>1</sup>. That map is based on the Concept Plan from the Golden Hills Concept Booklet. It is the intention of Livingston to develop their land in accordance with the Concept Plan if the land is rezoned. The estimated yield of development based on the Concept Plan is approximately 280 lots comprising:
  - 110 high density (22/ha) retirement lots;
  - 120 medium density (12/ha) residential lots;
  - 50 lifestyle (2.5/ha) lots;
  
13. Submission S127.001 seeks an amendment to the Waipukurau Growth Map in Figure 3 of the Urban Form and Development Chapter to reflect the requested rezoning of 96 Mt Herbert Road.
  
14. Both submissions have been recommended to be rejected in the S42A Report. I disagree with these recommendations and this brief of evidence sets out the planning merits of the rezoning request and why I consider that it should be accepted or at least accepted in part.
  
15. In particular my evidence will cover:
  - The resource management planning merits of the rezoning request, including consistency with:
    - i) The Regional Policy Statement ('RPS')<sup>2</sup>;
    - ii) The Central Hawke's Bay Integrated Spatial Plan ('ISP');and

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<sup>1</sup> Also shown in the S42A Report, Volume 2, under paragraph 5.2.1.

<sup>2</sup> That is the Regional Policy Statement component of the Hawke's Bay Regional Resource Management Plan.

- iii) Relevant Objectives of the PDP; and
- A summary of the expert evidence confirming that the rezoning is able to avoid, remedy or mitigate adverse effects and achieve positive environmental, and social benefits.
- Consideration of the Guiding Principles for Assessment of Rezoning Submissions (Appendix C of S42A Report).
- Consideration of the National Policy Statement for Highly Productive Land 2022.

## **Resource Management Planning Merits of the Rezoning**

### Regional Policy Statement

16. In preparing the submission I set out how the requested rezoning would 'give effect to' the RPS policies that are relevant to the urban rezoning of land within the Hawke's Bay Region<sup>3</sup>.
17. To avoid repetition, I refer to and adopt the comprehensive point by point assessment in Tables 1, 2 and 3 of the Livingston submission supporting document. In my opinion the assessment in the submission confirms that the rezoning achieves general consistency with the key RPS policies. I note the assessment in the S42A Report does not accept that conclusion and in the following paragraphs I explain how consistency is, or can be, achieved by the Livingston rezoning request.
18. Paragraph 5.3.23 of the S42A Report states "*The PDP approach gives effect to the RPS which seeks to establish compact, and strongly connected urban form throughout the Region (Objective OBJ UD1), and the requirement for long term planning for land use change in the Region to integrate development with the provision of strategic and other infrastructure, provision of services, and associated funding mechanisms (Objective OBJ5).*" In my opinion accepting this rezoning request will not dilute the ability of the PDP to give effect to OBJ UD1 & OBJ UD5 of the RPS, and indeed would enhance that ability in regard to OBJ UD1. The Livingston Concept Plan is based on the principle of a natural extension of the urban boundary of Waipukurau, with the General Residential Zone and indicative retirement housing area promoting a compact form. Further to this the extensive network of proposed walkways and reserves enables passive recreation connections to the perimeter of the rezoning area, while two roading connections to the transportation network are proposed via Mt Herbert

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<sup>3</sup> That being those policies within Section 3.1B 'Managing the Built Environment' of the RPS.

Road and Ennisclare Place, with a potential connection to the adjoining property to the west.

19. It is important to note that the 'existing environment' includes subdivision consent RM190126<sup>4</sup> to subdivide 88 lots under the Operative Plan provisions, over the area proposed for the rezoning. That subdivision includes the same two road entrances as proposed in the rezoning Concept Plan but does not include any reserves or walkways and does not in my opinion promote a compact urban form to the extent that the relatively flat land on an existing urban fringe should. In essence, the rezoning would better achieve a compact and connected urban form than the existing environment in this respect. I will return to the relevance of RM190126 later in my evidence.
20. I also note that in addition to promoting a compact and connected urban form OBJ UD1<sup>5</sup> also seeks housing choice and character, environmental sustainability, and the promotion of urban design principles; while avoiding or mitigating reverse sensitivity effects, encroachment onto the Heretaunga Plains, and natural hazard risk. In my opinion, and with regard to the briefs of evidence of the other Livingston experts, the requested rezoning is entirely consistent with all key elements of this objective.
21. Livingston are dependent on the Council and its Long-Term Plan to be able to address OBJ UD5 (integration with infrastructure) .<sup>6</sup> As is noted in Mr Taylor's brief of evidence for Livingston, Development Contributions as an infrastructure funding mechanism will be payable on future development if the rezoning is accepted, unlike the existing environment situation under RM 190126 . Further to this the rezoning area has access to existing reticulated wastewater and water mains at

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<sup>4</sup> RM190126 has a 10 year lapse date for section 223 certification which does not expire until 3 December 2031. There would be an additional maximum of three years after that date within which to gain section 224 certification.

<sup>5</sup> OBJ UD1 Establish compact, and strongly connected urban form throughout the Region, that:

- a) achieves quality built environments that: i. provide for a range of housing choices and affordability, ii. have a sense of character and identity, iii. retain heritage values and values important to tangata whenua, iv. are healthy, environmentally sustainable, functionally efficient, and economically and socially resilient, and v. demonstrates consideration of the principles of urban design;
- b) avoids, remedies or mitigates reverse sensitivity effects in accordance with objectives and policies in Chapter 3.5 of this plan;
- c) avoids, remedies or mitigates reverse sensitivity effects on existing strategic and other physical infrastructure in accordance with objectives and policies in Chapter 3.5 and 3.13 of this plan;
- d) avoids unnecessary encroachment of urban activities on the versatile land of the Heretaunga Plains; and
- e) avoids or mitigates increasing the frequency or severity of risk to people and property from natural hazards.

<sup>6</sup> Ensure through long-term planning for land use change throughout the Region, that the rate and location of development is integrated with the provision of strategic and other infrastructure, the provision of services, and associated funding mechanisms.

its frontages with Mt Herbert Road and Ennisclare Place, making future connection and servicing practicable. The issue of service capacity is however not something that Livingston can comment on or control.

22. Livingston did engage with Council's 3 Waters Operations Manager, Alex Horne, firstly in a meeting at the Council on 30 March 2022. Mr Horne helpfully advised<sup>7</sup> that he would investigate the current limitations of the existing 3 Waters Network for the Golden Hills development and he requested from Livingston an estimate of the number of proposed dwellings for modelling purposes. I replied to Mr Horne by e-mail on 30 March with an initial estimate of 210 – 265 residential units and 60 – 70 lifestyle sites. After further discussions with the Livingston project team, I sent a further reply to Mr Horne on 11 April 2022 refining the estimate to approximately 230 residential sites and 49 lifestyle sites as a best guess based on the Concept Plan<sup>8</sup>. That e-mail also offered land for a water reservoir if required, to increase the resilience of the reticulated network, and sought a reply and further discussion on 3 waters capacity constraints.
23. I sent follow up e-mails on 31 August 2022 and 20 September 2022 and left a phone message for Mr Horne on 29 September 2022. Mr Horne has not however replied to any of this correspondence. Livingston have therefore been unsuccessful in obtaining any information on whether there are constraints in the Council's 3 Waters reticulated infrastructure capacity. I am therefore unable to fully assess the rezoning request against OBJ UD5.
24. I agree with the S42A Report that the relevant policies of the RPS for the consideration of the Livingston rezoning request are UD10.3, UD10.4, UD 11 and UD12.<sup>9</sup> The S42A Report points out that, no structure plan has been provided, and that the assessment in the submission was based on the Concept Plan.<sup>10</sup> Although the Concept Plan addresses many of the requirements of a Structure Plan, as per my assessment in Tables 1 – 3 of the Livingston submission, the S42A Report is technically correct. A Structure Plan for the requested rezoning would be able to be included in the PDP and provide certainty to the extent of roads, reserves, walkways and stormwater infrastructure to be vested or otherwise provided for public benefit. As explained in Mr Taylor's brief of evidence, a Structure Plan to implement the Livingston Concept Plan (and in accordance with it) has

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<sup>7</sup> By e-mail, dated 30 March 2022.

<sup>8</sup> For the purposes of this hearing this indicative estimate has been rounded to 280 residential units over both the General Residential Zone and Rural Lifestyle Zone.

<sup>9</sup> Paragraph 5.3.23 of the s42A Report.

<sup>10</sup> S42A Report, paragraph 5.3.24.

therefore been prepared and is appended to his evidence. I acknowledge that for the Structure Plan to be included in the District Plan it would need to be referenced in the Subdivision Chapter and there would need to be a rule and standard referencing it. If the Commissioners were minded to accept this rezoning, the addition of a structure plan and associated provisions to the District Plan would in my opinion be within the scope of the Livingston rezoning submission. I note the 'summary of decision requested' for submission point S127.001 in section 5.1 of the S42A Report, Volume 2, which states: *"And make any consequential amendments to the text of the Proposed District Plan to support the above requested mapping changes, including the incorporation of the concept plan to provide certainty for the nature of development on the Livingston Properties Land."*<sup>11</sup>

25. Paragraph 5.3.25 of the S42A Report calculates the maximum number of lots that could be created under a residential zoning as 400 and questions the lack of detail on servicing and geotechnical constraints. As set out above, the rezoning can be practicably connected to the Council's 3 waters reticulated services at its road frontages, however Livingston has been unable to obtain information on the capacity of that service infrastructure but would be liable to pay development contributions to fund additional demand placed on these services. Geotechnical constraints can be addressed for the purposes of residential development as is established in Mr Wylie's expert geotechnical engineering evidence.
26. Paragraph 5.3.27 of the S42A Report notes the location and extent of land required for on site stormwater detention as a significant matter to be resolved. The attached Structure Plan identifies stormwater infrastructure and significant areas of reserve to vest that would be able to provide both stormwater attenuation, recreational and amenity functions. Detailed engineering design would be required to specify actual detention volume requirements. With no certainty of a rezoning this work is still to be undertaken. The available landholdings for stormwater attenuation, access to the Eastern Interceptor drain and natural water courses adjacent the northern boundary<sup>12</sup>, and the fall of the land towards Mt Herbert Road, in my opinion provides certainty that stormwater quality and quantity can be appropriately managed within the rezoning area. This would be subject to detailed engineering design which could be required by the PDP as a specific subdivision standard applying to the Livingston Structure Plan.

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<sup>11</sup> Rather than a summary this is word for word the decision requested in under 2(b) of the LPL submission.

<sup>12</sup> To which stormwater quality enhancing riparian planting has already been undertaken.



27. As explained above, it is not known if there are 3 waters reticulated infrastructure capacity issues. If there are capacity issues (until upgrades are undertaken) the PDP provisions could restrict the development of the General Residential Zone within the Livingston Structure Plan area until such time as those upgrades have been completed. If there is limited capacity available, the PDP could limit residential development to a maximum number of lots until the network capacity upgrades have been completed. Such an approach would secure Development Contributions for the lots that could be developed in the meantime to help fund the upgrade work.
28. In summary, the assessment in the Livingston submission, now supplemented by the Livingston Structure Plan, in my opinion confirms that the Livingston rezoning request achieves consistency with the relevant objectives and policies for residential rezonings in the RPS.

#### Central Hawke's Bay Integrated Spatial Plan

29. The full title of the ISP is '*Central Hawke's Bay Integrated Spatial Plan 2020 – 2050 – Responding to Growth*'. The foreword to the ISP states that it was adopted by Council on 24 September 2020, to inform planning documents for the 2021 Long Term Plan ('LTP'). Of relevance to reticulated infrastructure provision the LTP includes establishing a combined wastewater solution for Otane, Waipawa and Waipukurau that irrigates effluent to land only, to be delivered over 15 years at a total cost of \$54.3 million.<sup>13</sup> The LTP does not however provide any indication of the existing Waipukurau wastewater system capacity for additional residential growth. Similarly, the LTP identifies a strategy to amalgamate the water network between Otane, Waipawa and Waipukurau, and to replace key reservoirs to boost supply and the resilience of the supply.<sup>14</sup>
30. The ISP includes a vision for 'Smart Growth', and the 'Three Towns Cluster Action Plan' includes the following 'projects' under the Smart Growth heading:
- *Undertake an Evidence-based and Integrated Assessment of Capacity for Residential, Commercial and Industrial Growth Demand and Supply that Supports Clear Policy and Investment Decision-making.*
  - *Understand the need for additional land for residential, commercial, and industrial land across the three towns.*
  - *Take the opportunity to align growth areas with infrastructure, highly productive soils constraints, community feedback and urban form*

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<sup>13</sup> Central Hawke's Bay District Long Term Plan 2021 – 2031, page 93.

<sup>14</sup> Ibid, page 100.

*principles. These growth areas will provide additional choice and capacity in each of the towns for housing. - Creating a defined Urban Form that Supports the Delivery of Housing Options and Future Proofs Central Hawke's Bay*

31. The resulting 'Waipukurau Township Spatial Plan' identifies part of the Livingston land as "Potential growth area for focused investigation – medium term", and the remainder as "Proposed Rural Residential Growth Area".<sup>15</sup> That land was identified following the 'Smart Growth' assessment in the ISP development process. I lodged a submission on behalf of Livingston to the Draft ISP supporting the identification of their land for both future greenfield residential and future rural residential growth.<sup>16</sup> The reasons given in the Livingston submission for supporting such growth were:

- Greenfield Growth support reasons - *Approx 900m from Ruataniwha St, near to pathways and ability to add to green space and pathway network, access to reticulated services, north facing aspect, agricultural potential constrained by clay pan.*
- Rural Residential Growth support reasons - *proximity to CBD and pathways; ability to add to green network - new native plantings, north facing aspect, agricultural potential constrained by clay pan and topography, logical buffer to proposed Residential rezoning.*

32. In my opinion those reasons remain equally relevant to the Livingston rezoning submission to the PDP, particularly given the identification of the Livingston land in the ISP for both "*Potential growth area for focused investigation – Medium Term*" at the western end and "*Proposed Rural Residential Growth Area*" further to the east. I consider that it is also important to note that these areas were identified following a comparative assessment exercise of potentially suitable land.

#### Relevant Objectives of the Proposed District Plan

33. Section 32 of the RMA requires an examination of whether district plan provisions are the most appropriate way to achieve the objectives. In my opinion the most relevant objectives to the consideration of a residential rezoning are those of the Urban Form and Development Chapter, which are:

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<sup>15</sup> Pages 60 and 61 of ISP and extracted under paragraph 5.3.4 of the S42A Report.

<sup>16</sup> The submission to the Draft ISP was lodged on 21 August 2020.

*UDF-01 – Provide for a sustainable supply of land to meet current and future urban development demands.*

*UDF-02 – Retain and protect valuable highly productive land in the District from urban development.*

*UDF-03 – Ensure that new urban development is planned for and undertaken in a manner that is consistent with the matters outlined in the Hawke’s Bay Regional Policy Statement.*

34. As discussed above, in relation to UDF-O1, the Livingston land requested for rezoning has been identified in the ISP for future development following a comparative assessment exercise of potentially suitable land to meet future development demand through a Smart Growth process. In my opinion this is relevant to achieving consistency with all three of the above objectives. In terms of UDF-O2, productive soils constraints were one of the criteria considered in the ISP assessment. Having regard to the expert evidence of Mr Morice, although the soil within the area of land proposed for residential rezoning is classified as LUC3, its agricultural potential is significantly constrained. In comparison to other urban fringe areas, the Livingston land therefore offers an appropriate option for future urban development. I acknowledge that the National Policy Statement for Highly Productive Land (“NPS-HPL”) now requires greater regard to this matter, which I discuss below.

35. As to UDF-O3, I have already addressed the relevant matters in the RPS, which the Livingston rezoning request achieves consistency with. Given the above, in my opinion the Livingston rezoning request is appropriate for achieving the objectives of the Urban Form and Development Chapter.

36. In terms of consistency with the General Residential Zone, the PDP objectives of that zone are:

*GRZ-O1 – To enable existing and future residential needs to be met.*

*GRZ-O2 – To provide for the location of appropriate activities within residential areas which benefit local communities, but do not detract from the amenity of the area.*

*GRZ-O3 – Enabling individual and community expression in building design and architecture, while managing some elements of development in order to maintain and enhance the character and amenity values of the residential environment.*

37. In my opinion the requested General Residential rezoning area would achieve consistency with both GRZ-O1 and GRZ-O2 as it would enable

future residential needs to be met and the proposed amenity features of the rezoning, including the reserves, walkways and revegetation, would be of benefit to the local community and would enhance the amenity of the area.

38. I do not consider Objective GRZ-O3 to be relevant for this assessment as it provides direction for the provisions of the General Residential Zone themselves, that is once land is zoned as General Residential.

39. The PDP objectives of the Rural Lifestyle Zone are:

*RLZ-O1 – Low density residential needs are met within a Rural Lifestyle Zone located on land with soils of generally lower productivity in close proximity to the urban areas of Waipawa and Waipukurau.*

*RLZ-O2 – Compatible land use activities within the Rural Lifestyle Zone which enable sufficient flexibility for rural residential living and/or small-scale primary production activities, and which avoid or mitigate adverse effects within the zone and at the interface with other zones.*

40. I consider that the requested Rural Lifestyle rezoning would achieve consistency with RLZ-O1 being located on the sloping land of the site including the most elevated portions of LUC 3, along with LUC 4 and LUC 6 land adjoining the requested General Residential Zoning area, which is in turn immediately adjoining the Waipukurau urban boundary.

41. In regard to RLZ-O2, the Rural Lifestyle Zone would buffer the General Residential Zone from activities within the General Rural Zone and would provide for rural residential living and small scale primary production activities. Accordingly, I consider that the requested Rural Lifestyle rezoning on the Livingston land would achieve consistency with RLZ-O2.

### **Planning Relevance of Expert Evidence in Support of Livingston Rezoning**

42. Evidence is provided to this hearing by other experts on behalf of Livingston to both identify that all relevant potential adverse effects of the rezoning can be avoided, remedied or mitigated, or to identify the benefits of the rezoning in providing for the communities social, economic, and cultural well-being.

### **Traffic Engineering**

43. Mr Champion's expert transportation planning and traffic engineering evidence estimates that with the rezoning and development in accordance with the Livingston Concept Plan approximately 2,947

vehicle trips per day would be generated with approximately 325 trips in the peak hour.<sup>17</sup> Mr Campion advises that he has no concerns with the operational capacity of the proposed site entrance to Mt Herbert Road or the Ennisclare Place intersection as a result of the proposed development.<sup>18</sup>

44. In assessing the road network capacity including the intersection of Mt Herbert Road and Wellington Road, Mr Campion concludes that an appropriate level of service would remain available until 2050 (being the extent of the period assessed) if the rezoning were to be implemented.<sup>19</sup> Mr Campion also identifies the potential of the main site access road and the connection with Ennisclare Place to create a loop to support public transport in the future<sup>20</sup> and the potential to promote increased walking and cycling both within the site and when undertaking trips on the surrounding network.<sup>21</sup>
45. In my opinion, Mr Campion's expert evidence demonstrates that the proposed rezoning would not adversely affect the safety and efficiency of the existing roading network. It also demonstrates the potential for public and active transportation options to be promoted to future residents.

#### Geotechnical Engineering

46. Mr Wylie's expert geotechnical engineering evidence confirms that *"the whole of the Concept Plan area is considered suitable for residential development from a geotechnical perspective including for high and medium density housing."*<sup>22</sup>
47. In terms of potential constraints Mr Wylie identifies that shallow soil creep on slopes < 20° necessitate minor setbacks and cut and fill within the recommendations of the RDCL Preliminary Geotechnical Investigation.<sup>23</sup> These slopes would correlate with the land identified as being subject to 'Moderate Earthflow Risk' in the Hawke's Bay Natural Hazards Portal as referenced in paragraph 5.3.8 of the S42A Report. Given Mr Wylie's evidence, I consider that the identified moderate earthflow risk is able to be appropriately mitigated.
48. Mr Wylie identifies a portion of the requested residential rezoning area as alluvial flats referred to as the 'Lower Region' and susceptible to

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<sup>17</sup> Brief of Evidence of A Campion, paragraph 22.

<sup>18</sup> Ibid, paragraphs 26 & 27.

<sup>19</sup> Ibid, paragraphs 19 & 32.

<sup>20</sup> Ibid, paragraph 28.

<sup>21</sup> Ibid, paragraph 33.

<sup>22</sup> Brief of Evidence of C Wylie, paragraph 18.

<sup>23</sup> Ibid, paragraph 16(c).

liquefaction. Mr Wylie states that to mitigate liquefaction risk “*allowance should be made for TC2 style foundations as is widely practiced throughout urban areas of Hawkes Bay*”.<sup>24</sup> This type of foundation would be required through the building consent process, so there would be no need for additional District Plan provisions to ensure that the liquefaction risk is mitigated.

49. In my opinion therefore, Mr Wylie’s evidence demonstrates that the requested rezoning area is geotechnically appropriate for housing development.

#### Landscape and Urban Design

50. Expert landscape and urban design evidence is provided by Shannon Bray, the author of the Golden Hills Concept Plan booklet.
51. Mr Bray identifies the factors taken into account in preparing the Livingston Concept Plan including his professional assessment of the context of the site and the wider area of the existing Waipukurau environment. Mr Bray notes that based on the surrounding urban form there is scope for higher density, small lot residential closer to town, with larger lots further away, as well as a need for integrated retirement living.<sup>25</sup> Providing for such a mix is a key component of the resulting Concept Plan attached to the Livingston submission.
52. In regard to natural context, Mr Bray identifies the lack of indigenous vegetation in the Waipukurau area, presenting the opportunity for revegetation and enhancement, with Livingston having now planted over 20,000 native species in the riparian margin and future reserve areas of the Rural Lifestyle portion of the rezoning area.<sup>26</sup>
53. In commenting on District Plan context, Mr Bray notes that the Livingston site is zoned General Rural, suggesting that it is comparatively less productive than the other fringes of Waipukurau which are zoned Rural Production under the PDP.<sup>27</sup> I agree that this is a logical conclusion to make as I understand the purpose of the Rural Production Zone is to manage the most productive land of the District in that zoning for resource management planning purposes.
54. At paragraphs 34 – 40, Mr Bray notes that the ISP findings are consistent with his own in identifying the Livingston site for both residential and rural residential growth. As Mr Bray also notes other

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<sup>24</sup> Brief of Evidence of C Wylie, paragraph 19.

<sup>25</sup> Brief of Evidence of S Bray, paragraphs 24 & 25.

<sup>26</sup> Ibid, paragraph 29.

<sup>27</sup> Ibid, paragraphs 30 – 33.

growth areas on the Waipukurau fringe are identified for Rural Residential, rather than greenfield growth in the ISP.

55. I consider that the point made in paragraph 42 of Mr Bray's evidence is significant, that Waipukurau is surrounded by LUC 3 land (there are also swaths of LUC 2 land adjacent the Tukituki River margins), including all the growth areas, identified in the ISP. I return to this point below. I note that the growth areas identified for Otane in the ISP are similarly located on LUC 3 land, while the growth areas identified for Waipawa include both LUC 3 and LUC 4 land.
56. I agree with Mr Bray's observations regarding the existing resource consent RM190126, that it would significantly diminish the land use capability of the site<sup>28</sup>, and that it was not developed through a designed landscape or urban responsive approach.<sup>29</sup>
57. In terms of promoting sustainable management and reducing carbon emissions, I consider Mr Bray's analysis in paragraph 54 significant that of the potential growth areas identified in the ISP for Waipukurau, the Livingston site provides the best walking and cycling connection to public amenities including the CBD, community buildings and recreational areas.
58. The various and comprehensive list of considerations that have resulted in the Livingston Concept Plan are summarised in paragraphs 61 – 68 of Mr Bray's evidence, and I agree with his conclusion that the result is a *"landscape and urban responsive residential development that is well connected and in character with Waipukurau."*<sup>30</sup> I also agree with Mr Bray's overall conclusion that *"the Golden Hills Site is ideally suited to accommodate future growth in Waipukurau, ... through a range of residential typologies – small lot, large lot and rural-lifestyle, as well as potentially cater for the establishment of an integrated retirement village."*<sup>31</sup>

### Surveying

59. Expert land surveying evidence is provided by Andrew Taylor. Mr Taylor's evidence provides the specific details of subdivision RM190126 and compares development under that subdivision, to development that is proposed to occur under the Livingston Concept Plan (and now Structure Plan) if this rezoning were to be accepted. I

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<sup>28</sup> Brief of Evidence of S Bray, paragraph 49.

<sup>29</sup> Ibid, paragraph 50.

<sup>30</sup> Ibid, paragraph 68.

<sup>31</sup> Ibid, paragraph 74.

note that in resource management terms, RM190126 must be considered as part of the existing environment.

60. In my opinion Mr Taylor's evidence clearly demonstrates the significant additional public amenity benefits that would result from the rezoning and implementation of the Structure Plan including: a lesser loss of land from production (35ha v 47ha under RM190126), 9.3ha of public reserve, 5,000m of public walkways<sup>32</sup>, and provision for additional amenities with a small commercial zoning (0.5ha) and space identified for a farmers market and concert venue (for which resource consent would need to be separately obtained).<sup>33</sup>
61. Mr Taylor also explains how the Structure Plan appended to his evidence was developed from the Concept Plan. As I have discussed above, inclusion of the Structure Plan within the PDP along with corresponding references in the Subdivision Chapter rules and standards, will provide certainty that the identified public amenity benefits occur as part of the subdivision approval process.
62. In my opinion and having regard to the respective evidence of Mr Bray and Mr Taylor, acceptance of the Livingston rezoning submission will result in significantly enhanced benefits to the Waipukurau community, in comparison to rejecting the submission and the implementation of RM190126.

#### Agricultural Productivity

63. Expert evidence on the agricultural productivity of the land requested to be rezoned is provided by Greg Morice.
64. Mr Morice confirms the LUC 3, LUC 4 and LUC 6 status of the Livingston site and provides a greater detail of assessment identifying sub-categories of 3s1 and 3e2 for the LUC 3 land.<sup>34</sup> Mr Morice explains that a descriptor of "s" is a limitation of soil properties and a descriptor of "e" the effects of past erosion damage that first limits productivity.<sup>35</sup>
65. Mr Morice goes on to identify the specific soil classifications of the Site with the LUC 3 land comprising Waipukurau 9b and Matipiro 9 soils and that the Matipiro soils have a compacted sandy clay loam (pan) that has a significant impact on productivity.<sup>36</sup> In my opinion, this is important detail when considering the suitability of rural land for

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<sup>32</sup> This figure may be potentially greater noting the 5km of walking and biking tracks through the bush referred to in paragraph 12(c) of Mr Livingston's brief of evidence.

<sup>33</sup> Brief of evidence of A Taylor, paragraph 18.

<sup>34</sup> Brief of evidence of G Morice, paragraph 16.

<sup>35</sup> Brief of evidence of G Morice, paragraph 19.

<sup>36</sup> Ibid, paragraph 25.



residential and rural residential rezoning, where the comparative loss of productive potential of various areas of LUC1 – 3 land is relevant.

66. Mr Morice concludes “*The Site is not highly productive land and is likely that it only falls in this category because of its near flat contour, and nothing else*” and “*that there is minimal loss of productivity by converting this land to “general residential” zone and “rural lifestyle” zone.*” In my opinion this relative lack of productive potential likely explains why this land was zoned General Rural rather Rural Production in the PDP and would have contributed to the identification of it for future residential growth in the ISP.

#### Conclusion of Planning Significance of Expert Evidence

67. Expert traffic and geotechnical engineering evidence from Mr Campion and Mr Wylie respectively, confirms that the requested residential rezoning is appropriate in terms of both transportation and land stability.
68. Mr Bray’s landscape and urban design evidence explains how the context of the site and the wider Waipukurau area have been taken into account in the design of the Livingston Concept Plan. This includes environmental enhancement with the 20,000 native plantings and a design response respecting the landscape, character and needs of the Waipukurau community, including with the variety of residential typologies offered. Mr Bray’s evidence also confirms with a comparative analysis that the Livingston Site is the best placed area on the urban fringe of Waipukurau in providing for sustainable urban form.
69. Mr Taylor’s expert land surveying evidence provides a comparison of the consented 88 Lot subdivision (RM190126)<sup>37</sup> with the requested rezoning and the implementation of the Livingston Concept Plan. The greater community benefits of the rezoning and its associated reserves, walkways, public roads, stormwater infrastructure to vest, and development contributions payable are in my opinion significant. I also consider that the incorporation of the Structure Plan prepared by Mr Taylor into the PDP will provide certainty that these benefits would be accrued by the community upon subdivision of the rezoned land.
70. Finally, Mr Morice in his expert evidence about the productive potential of the land, confirms following a detailed assessment of the LUC sub class and soil type, that the LUC 3 land within the Site has significant

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<sup>37</sup> Which does not lapse until 2031.

constraints for agricultural production and that the rezoning will only result in a minimal loss of productivity.

### Guiding Principles for Assessment of Rezoning Submissions

71. Appendix 3 of the S42A Report, Volume 2, sets out guiding principles and assessment criteria for the assessment of rezoning submissions. Some of the principles and criteria are not relevant to the Livingston land, while I have already covered some of the principles and criteria in my evidence above. For completeness I comment on the Livingston rezoning request in regard to each principle, and where relevant the associated criteria in the following table.

Principle	Assessment Criteria Summary	Comment
Sufficient Information	<ul style="list-style-type: none"> <li>- The request is supported by a pdf map...</li> <li>- The request is supported by information that identifies the features of the site (e.g. ..., any relevant existing resource consents).</li> <li>- If the change relates to someone else's land...</li> </ul>	The request is supported by a Concept Plan map identifying the features of the site. Details of the features of the site and the existing subdivision consent are set out in the various briefs of evidence for Livingston. The rezoning request only includes land owned by Livingston.
Better Achieves the Objectives of the PDP	<ul style="list-style-type: none"> <li>- The change is consistent with the objectives and policies of the proposed zone in the PDP. This applies to both the type of zone and the zone boundary.</li> <li>- The purpose of the Precinct / Development Area cannot be achieved through applying for a resource consent under the PDP provisions.</li> <li>- The purpose of the Precinct / Development Area cannot be achieved through the use of the underlying zone and district-wide provisions of the PDP.</li> </ul>	As is demonstrated in my evidence above under the heading 'Relevant Objectives of the proposed District Plan', the change is consistent with the relevant objectives of the PDP for the zones proposed and the Urban Form & Development Chapter. The 2nd and 3rd criteria are not relevant as the underlying General Rural Zone does not provide for the residential development sought and would not be supportive of a resource consent to provide for residential subdivision and development.
Gives Effect to the NPS-HPL	Consistency with the NPS-HPL is assessed under a separate heading in this evidence below.	

Gives Effect to the NZCPS	The NZCPS is not relevant to the requested rezoning which is not within the Coastal Environment.	
Gives Effect to the RPS	As is demonstrated in my assessment under the heading Regional Policy Statement above, consistency is achieved by the requested rezoning.	
Accompanied by a Structure Plan	A Structure Plan for inclusion in the PDP for the rezoning of the LPL land is appended to the brief of evidence of Mr Taylor.	
Addresses Development Capacity, Projected Household and Economic Growth	The change enables the efficient provision of development capacity and land supply for projected residential growth / projected commercial and industrial growth.	The rezoning request would enable the efficient provision of development capacity and land supply for projected residential growth. It is acknowledged that there is significant capacity for further housing supply within existing zoned areas of Waipukurau, however the LPL land would provide an additional choice on land immediately adjoining the urban boundary, that is demonstrated as being efficient and appropriate in this evidence. It is noted that under a high growth scenario 580 additional houses will be required in Waipukurau to 2031 and an additional 2,130 houses to 2051. <sup>38</sup>
Enables the Relationship of Māori and their Culture and Traditions with their Ancestral Lands	The change enables Māori to express their tikanga and kaitiakitanga over their ancestral land, and realise their post-settlement cultural and development aspirations.	There are no wāhi tapu or archaeological sites identified in the Livingston rezoning area. The proposed reserves will provide public spaces within which there would be opportunity for Māori kaitiakitanga to be expressed through the reserve development.
Promotes Compact Urban Form, Good Network Linkages, and Links to	The change promotes the achievement of a quality compact urban form, good accessibility, transport network links (including active transport), supports the reduction	As per the evidence of Mr Bray, the rezoning will promote a quality compact urban form, accessible to the town centre and transport links, including pathways. Open space is proposed within the rezoning area

<sup>38</sup> 'Central Hawke's Bay District – Demographic and Economic Growth Projections – Update 2022', Squillions, February 2022 (page 23, Table 18).

Open Space & Services	of greenhouse gas emissions, and links to open space and community services (social infrastructure).	and community services will be readily accessible.
Infrastructure Enabled	<ul style="list-style-type: none"> <li>- Zone boundary changes recognise the availability or lack of major infrastructure (e.g. water, wastewater, stormwater, transport networks, electricity/gas etc).</li> <li>- Provision of infrastructure to the area is feasible.</li> <li>- Development is appropriately and efficiently serviced for the collection, treatment, disposal or re-use of sewage and stormwater, and the provision of potable water by: <ul style="list-style-type: none"> <li>- Avoiding development which will not be serviced in a timely manner.</li> </ul> </li> </ul>	As discussed above the proposed rezoning area is readily accessible to the reticulated 3-waters infrastructure network, however the capacity of that network is not known to Livingston, but Council's strategic direction in its LTP and ISP is to provide sufficient reticulated infrastructure capacity for urban growth.
Avoids Scheduled Significant Sites, Areas & Features	<p>The change avoids:</p> <ul style="list-style-type: none"> <li>- Scheduled areas with significant environmental, heritage, Māori, natural character or landscape values i.e. SNAs, Notable Trees, Heritage Items, SASMs, HNCs, ONL/ONFs etc;</li> <li>- Further fragmentation and/or loss of highly productive land.</li> </ul>	<p>The rezoning area does not include any scheduled or significant sites referenced in this criterion.</p> <p>The rezoning area does involve LUC 3 land that is constrained by a clay pan. That land can currently be taken out of production to implement the 88-lot subdivision consented under RM190126, therefore rezoning would have the same effect in terms of fragmentation and loss of land to production as what is already consented but over a smaller affected area (35 v 47 ha). Further to this land productivity was a criteria in the ISP process which resulted in this land being identified as a potential growth area.</p>
Avoids Hazards and Risks (where possible)	<p>The change avoids, where possible:</p> <ul style="list-style-type: none"> <li>- areas prone to natural hazards, including coastal hazards;</li> <li>- contaminated land;</li> <li>- conflicts between residents and infrastructure.</li> </ul>	The proposed rezoning avoids the hazards <sup>39</sup> and risks referred to in this criterion.

<sup>39</sup> Noting Mr Wylie's expert geotechnical engineering evidence that any geotechnical hazards are able to be appropriately mitigated.

<p>Avoids Incompatible Land Uses</p>	<p>There is adequate separation between incompatible land uses (e.g. houses should not be next to heavy industry or intensive primary production etc).</p>	<p>The proposed rezoning will not result in any future dwellings located adjacent to either industrial activities or intensive primary production. I note the external boundaries within the General Rural Zone are with pastoral farming properties. Further to this, the concept plan is designed such that all external non-residential boundaries to the rezoning are buffered by either reserves, waterways or farmland.</p>
<p>Boundaries are Logical &amp; Defensible</p>	<ul style="list-style-type: none"> <li>- Zone / Precinct / Development Area boundaries are clearly defensible e.g. follow physical features (e.g. roads, rail, parcel boundaries) or natural features (e.g. rivers, lakes, coast) where possible, or other boundaries consistent with the purpose of the zone.</li> <li>- Boundaries are contiguous and/or an extension of an existing zone.</li> <li>- Generally, no spot zoning (i.e. a single site/small area zoned on its own).</li> </ul>	<p>The northern and southern boundaries of the rezoning area with General Rural Zone land are generally separated from the neighbouring land by either reserve, walkway, watercourse and / or General Rural Zoning, making them defensible to the rezoning of neighbouring General Rural Zone land.</p> <p>The western and northern boundaries of the requested General Residential Zone is contiguous to existing General Residential Zoned land and forms a natural extension to that land. Accordingly, the rezoning request could not be categorized as a spot zoning.</p>
<p>Not Determined by Existing Resource Consents &amp; Existing Use Rights</p>	<p>Zoning / Precincts / Development Areas are not determined by existing resource consents and existing use rights, but these will be taken into account.</p>	<p>As explained throughout this evidence the consented 88 lot subdivision RM190126 over the entire area of the rezoning request forms the 'existing environment' and is in my opinion a relevant and important consideration in determining this request.</p>

72. Given the assessment in the above table, the LPL rezoning request generally compares favourably to the guiding principles and criteria for the assessment of rezoning submissions as set out in Appendix 3 of the S42A Report.

## National Policy Statement for Highly Productive Land 2022

73. As set out above the ISP identifies the Livingston land for future urban development, which creates potential for the Livingston land to be exempt from consideration as highly productive land, under clause 3.5(7)(b)(i) of the NPS-HPL. The S42A Report however states that *“this is not considered to constitute a formal identification of the land for future urban development”*.<sup>40</sup>

74. The NPS-HPL includes the following definition in clause 1.3:

*identified for future urban development means:*

*(a) identified in a published Future Development Strategy as land suitable for commencing urban development over the next 10 years; or*

*(b) identified:*

*(i) in a strategic planning document as an area suitable for commencing urban development over the next 10 years; and*

*(ii) at a level of detail that makes the boundaries of the area identifiable in practice*

75. The ISP identifies the Livingston Site as a potential growth area for focussed investigation in the medium term (3-10yrs). In my opinion the ISP is a strategic planning document, and the Livingston Site is identified as a growth area within a 10 year time frame with the boundaries of the area identifiable. I acknowledge that identification as “a potential growth area for focused investigation” however may not constitute identification “as an area suitable for commencing urban development” (emphasis added). This contrasts to the area identified for Rural Residential Growth on the Livingston Site which the ISP Waipukurau Spatial Plan identifies as “Proposed Rural Residential Growth Area.”

76. For the remainder of this evidence, I will therefore conservatively assume the finding in the S42A Report is correct that the LUC 3 land is subject to the NPS-HPL, but that the land identified in the ISP as ‘Proposed Rural Residential Growth Area’ is exempt as an area ‘identified for future urban development’.

77. In terms of the requested residential rezoning area, I consider that paragraphs 5.3.18 and 5.3.19 of the S42A Report are correct in setting out the relevant provisions of the NPS-HPL, being clause 3.6(4) & (5).

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<sup>40</sup> S42A Report, paragraph 5.3.16.

78. Paragraph 5.3.20 of the S42A Report states that the submitter has not established that the land is required to provide sufficient development capacity to meet expected demand for housing. As I discuss below the land will assist in providing sufficient residential development capacity for Waipukurau. I acknowledge that it is not currently possible to conclusively demonstrate that the land is 'required' for this purpose.
79. I have however reviewed the February 2022 Squillions Demographic Projections report that was appended to the Officers Right of Reply to the Stream 2 hearings. From the information in that report, I acknowledge there is a significant supply of rural lifestyle sites across the District and infill subdivision potential within the existing residential zones of Waipukurau available to meet housing growth needs.
80. The supply of rural lifestyle sites created under the Operative District Plan Rural Zone subdivision rules, would in my opinion provide a development option for people wishing to live in a rural area, but does not provide the most sustainable solution in providing residential development capacity for the Waipukurau community. Such 'rural lifestyle' residential development is inefficient as to the consumption of or encroachment onto otherwise productive land, is more motor vehicle dependent, subject to onsite servicing, and generally displaced from urban services and amenities. It is important in my opinion that the uptake of these Rural Zone lifestyle sites for residential development occurs by choice, rather than by a constrained supply of available residential zoned and serviced sites.
81. While there are significant areas of zoned residential land available for subdivision and development in Waipukurau, some of this land is not easily developable, with the land on the western fringe (to the west of Racecourse Road) being low lying making servicing more difficult and other undeveloped land being traversed by earthquake fault lines<sup>41</sup>. While these constraints do not prevent residential development, they contribute to making such development more difficult and costly. More fundamentally, as noted earlier, all growth areas in the ISP for Waipukurau are on LUC 3 land, and are similarly not proposed to be rezoned in the PDP, curtailing future growth capacity options from greenfield land to supplement the development of the zoned land.
82. As set out in the Squillions Report under a high growth scenario, 580 additional houses will be required in Waipukurau to 2031 and an additional 2,130 houses to 2051.<sup>42</sup> Rezoning the Livingston Land as

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<sup>41</sup> As shown on the Hawke's Bay Hazard Portal maps.

<sup>42</sup> 'Central Hawke's Bay District – Demographic and Economic Growth Projections – Update 2022', Squillions, February 2022 (page 23, Table 18).

requested would assist in providing development capacity to meet this expected demand, alongside the development of the available already zoned land. Such an approach will ensure a variety of housing choice and location options and assist in achieving a more sustainable urban form for Waipukurau and the CHB District. It would also reduce reliance on an uptake in the development of Rural Zone lifestyle sites<sup>43</sup> for meeting residential development capacity. From my experience in processing resource consent applications for the Council I am aware that many of these Rural Zone lifestyle sites are on Highly Productive Land in any case.

83. In my opinion, considering the development of subdivided rural lifestyle sites on Highly Productive Land within the Operative District Plan Rural Zone, to be a reasonable and practicably feasible option for providing residential development capacity for Waipukurau<sup>44</sup> is not sustainable management.
84. In terms of the NPS-HPL Clause 3.6(4)(c), the S42A Report questions whether the benefits of the rezoning would outweigh the costs associated with the loss of highly productive land.<sup>45</sup> In my opinion the expert evidence submitted on behalf of Livingston clearly establishes the benefits of the rezoning, including in comparison to the rezoning of other areas of the Waipukurau urban fringe. That evidence also establishes that the land can be rezoned in a manner that avoids, remedies or mitigates adverse effects, and therefore with little environmental, social, cultural and economic cost.
85. The rezoning should not in my opinion, be considered to result in the loss of the LUC 3 land for land-based primary production, when the existing environment comprises of an 88-lot lifestyle site subdivision that if implemented would remove the same land from production.
86. I also consider it relevant that the land is identified as a potential growth area in the ISP as confirmation that it has comparatively greater benefits for residential development than other areas of the Waipukurau urban fringe.
87. NPS-HPL Clause 3.6(5) requires the spatial extent of highly productive land to be rezoned to be the minimum necessary to provide the required development capacity while achieving a well-functioning urban environment. As set out above, it is impossible to verify a required development capacity, other than to note there is a housing

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<sup>43</sup> Created under the Operative District Plan.

<sup>44</sup> In regard to NPS-HPL Clause 3.6(4)(b).

<sup>45</sup> Paragraph 5.3.20.



growth need for Waipukurau. Growth projections identify a need for 580 additional houses for Waipukurau by 2031 and the Livingston rezoning provides a sustainable option for meeting part of this need alongside infill development of zoned residential land. As per Mr Bray's evidence, the development of the Livingston concept plan is premised on achieving a compact well-functioning urban environment, with reserves, walkways and urban buffers connecting the General Residential and Rural Lifestyle areas, and a variety of housing typologies provided for. In my opinion all of the requested land is necessary to be rezoned, both within and beyond the extent of the LUC 3 land, to ensure a well-functioning urban environment.

88. I therefore disagree with paragraph 5.3.21 of the S42A Report and consider that the Livingston rezoning request is able to meet the criteria under clause 3.6(4)&(5) of the NPS-HPL.

#### Rezoning to Rural Lifestyle Zone

89. I disagree with paragraphs 5.3.32 – 5.3.35 of the S42A Report which conclude that rezoning LUC 3 land to Rural Lifestyle Zone as requested by Livingston, would be contrary to the NPS-HPL. As set out under paragraphs 74 – 76 above, I consider that identification in the ISP for 'Proposed Rural Residential Growth' exempts at least part of the LUC 3 Livingston land from being classified as highly productive under clause 3.5(7)(b)(i).
90. I also disagree with the statement in paragraph 5.3.37 of the S42A Report that the remaining upper portion of Rural Lifestyle zoning is prevented as the concept relies on obtaining physical access from Mt Herbert Road which traverses that land deemed 'highly productive land' by the NPS-HPL. In my opinion it is relevant that an access track for the permitted farming activity could be formed along that same alignment as a permitted activity under both the operative and proposed District Plans. Further to this the existing environment includes subdivision consent RM190126, in which the access roads to Mt Herbert Road and Ennisclare Place are the same as proposed under the Livingston Concept Plan and the attached Structure Plan.<sup>46</sup>

#### Relevance of Subdivision Consent RM190126

91. Paragraph 5.3.39 states that the approved consent can still be exercised but any further subdivision and development of that portion of land containing LUC 3 land is subject to the provisions of the NPS-HPL. While the land identified as 'a potential growth area for focused

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<sup>46</sup> See Appendix 2 of the Brief of Evidence of A Taylor.

investigation' in the ISP maybe subject to the NPS-HPL, in my opinion rejecting the Livingston rezoning request on that basis would not be consistent with the sustainable management purpose of the RMA.

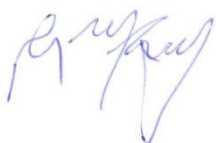
92. As I have set out above, rezoning the Livingston land will provide development capacity for housing supply in Waipukurau in a sustainable manner to achieve a well-functioning urban environment. To not rezone that land so that this development capacity is fulfilled in a less sustainable manner by the uptake of consented subdivisions on highly productive land in the Rural Production and General Residential Zones would in my opinion have a greater adverse effect on the loss of such land to agricultural production.
93. Specifically in regard to RM190126, Mr Taylor's brief of evidence demonstrates that the implementation of that subdivision will result in a greater area of land lost from the balance farm than would occur under the rezoning request. Further to this, subdivision in accordance with RM190126 would be a significantly less efficient use of the LUC 3 land for housing supply than the rezoning and would not provide community benefits in the form of reserves and walkways.
94. Given the above, in my opinion to not rezone the Livingston land as requested because it has an LUC 3 classification, would lead to a perverse outcome in regard to the sustainable management of the District's highly productive land resource.

## **Conclusion**

95. The Livingston rezoning request if developed in accordance with the Concept Plan achieves consistency with the RPS. I consider that to provide certainty that the Livingston Concept Plan will be implemented, the Structure Plan appended to Mr Taylor's evidence should be incorporated into the PDP with consequential corresponding provisions in the Subdivision Chapter.
96. The Livingston land has been identified as a potential growth area as part of an evidence based integrated assessment of capacity for residential growth for Waipukurau through the ISP. Further to this my assessment above demonstrates that the rezoning is consistent with the objectives of the Urban Form and Development Chapter, General Residential Zone and Rural Lifestyle Zone of the PDP.
97. Expert evidence on behalf of Livingston demonstrates that there are no transportation, geotechnical or agricultural land loss issues that prevent the land from being rezoned. This expert evidence also demonstrates how the rezoning proposal and Concept Plan will be of community

benefit and is the best placed area on the urban fringe of Waipukurau in providing sustainable urban form for future growth.

98. My assessment of the Livingston rezoning request against the guiding principles for the assessment of rezoning submissions<sup>47</sup> demonstrates that it is consistent with those principles.
99. In my opinion the Livingston rezoning request is able to meet the criteria under clause 3.6(4)&(5) of the NPS-HPL which would enable LUC 3 land to be rezoned for urban development. If this conclusion is not accepted, I do not consider that it is appropriate to reject the rezoning request because the land involved is 'highly productive' when the consequence of that decision would promote the less efficient and less beneficial development of RM190126 over the same land. Further to this, not rezoning the Livingston land in providing residential development capacity for Waipukurau, would also promote development of already approved subdivisions on highly productive land in the rural areas of the District to provide this capacity.
100. If existing 3 waters reticulated services capacity constraints would prevent the development of the requested General Residential Zone on the Livingston Land in the short term, then consequential amendments should be made to the Subdivision Chapter to ensure that the timing of development must accord with service availability. In my opinion this would provide certainty for the most appropriate form of future development for this land and would better achieve sustainable management than the alternative of rejecting the rezoning request.
101. In my opinion accepting the Livingston rezoning submissions in providing for the residential development capacity for Waipukurau is consistent with the sustainable management purpose of the RMA.



**Philip McKay**

**31 October 2022**

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<sup>47</sup> As attached to the S42A Report, Volume 2, Appendix 3.