

**BEFORE THE HEARINGS PANEL  
FOR THE QUEENSTOWN LAKES DISTRICT COUNCIL**

<b>UNDER</b>	the Resource Management Act 1991
<b>IN THE MATTER</b>	of a variation to the QLDC Proposed District Plan – Urban intensification
<b>BY</b>	<b>CITY IMPACT CHURCH QUEENSTOWN INCORPORATED</b>  Submitter 775
<b>AND</b>	<b>1 HANSEN ROAD LP</b>  Submitter 766

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**SUBMITTERS' OPENING LEGAL SUBMISSIONS**

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Dated: 7 August 2025

**MAY IT PLEASE THE COMMISSIONERS:**

- [1] These submissions are presented on behalf of the City Impact Church Queenstown Incorporated (**City Impact Church**) and 1 Hansen Road LP (previously No. 1 Hansen Road Limited, referred to hereafter as **1 Hansen**) (collectively referred to as the **Submitters**) in relation to the urban intensification variation to the Queenstown Lakes District Council Proposed District Plan (**PDP**) (**Variation**).

**Submitters' land and relief sought**

- [2] City Impact Church and 1 Hansen own land legally described as below:
- (a) City Impact Church owns land at 3 Hansen Road, Frankton (**City Impact Church Land**), and
  - (b) 1 Hansen owns land at 1 Hansen Road, Frankton (**1 Hansen Land**).
- (the **Sites**).
- [3] An image demonstrating the location of the City Impact Church Land and 1 Hansen Land and its current PDP zoning is included in the evidence of Ms Charlotte Clouston.<sup>1</sup> As set out in Ms Clouston's evidence, the Sites have the following overlays:<sup>2</sup>
- (a) The City Impact Church Land is zoned Rural and Lower Density Suburban Residential (**LDSR**),
  - (b) The 1 Hansen Land is zoned Local Shopping Centre zone (**LSCZ**), Rural, and LDSR,
  - (c) The Urban Growth Boundary (**UGB**) and Queenstown Airport Outer Control Boundary (**OCB**) partially cover both Sites, and
  - (d) Both Sites partially include land within the Queenstown Hill / Te Tapanui Outstanding Natural Landscape (**ONL**) overlay.

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<sup>1</sup> Figure 2 and Figure 3.  
<sup>2</sup> At [13]-[19].

- [4] The Submitters both seek rezoning to a Business Mixed Use Zone (**BMUZ**) (from LDSR / LSCZ respectively), and an extension of that zoning over Rural Land, with consequential realignment of ONL and UGB boundaries. Site specific rules and provisions as to ASAN and building heights are also discussed in the evidence of Ms Clouston.
- [5] Of particular relevance to these submissions, is the question of whether the submission points seeking to rezone a small area of each Site from Rural to BMUZ is within the scope of the Variation:
- (a) City Impact Church seeks to –
    - (i) Rezone a small triangle from Rural to align with the commercial zoning of the remainder of the site.
    - (ii) Adjust the UGB to include this small triangle.
    - (iii) Rezone the Land outside the ONL from LDSRZ to BMUZ.
  - (b) 1 Hansen –
    - (i) Rezone balance land from Rural, to align with the commercial zoning of the remainder of the site.
    - (ii) Rezone the Land from LSCZ to BMUZ.
  - (c) Both Submitters also seek to adjust the ONL boundary to align with the property boundaries.
- [6] The relief requested for this rezoning extension is progressed in summary, on the basis of:
- (a) The Sites are highly accessible with Frankton commercial areas, aligning with the Accessibility Analysis conclusions and the strategic intention of the Variation.<sup>3</sup>
  - (b) The rezoning would result in a consistent and coherent patterning of BMUZ development in Frankton North and not undermine the

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<sup>3</sup> Evidence of Ms Charlotte Clouston, at [29].

functioning of either Frankton LSCZ, Five Mile, Queenstown Central, or Frankton North centres.<sup>4</sup>

- (c) The existing zoning and ONL boundaries in relation to the Site do not reflect sensible, efficient or effective planning outcomes and do not reflect landscape values on the ground.<sup>5</sup>
- (d) The ONL in this location would be more appropriately aligned with property boundaries as a pragmatic line and to ensure consistency with similar treatment of the ONL boundary at Frankton North.<sup>6</sup> This would result in a more defensible and clearly defined boundary than the current situation which is anomalous in that it passes through the middle of built form.<sup>7</sup>

#### **Scope issues – Whether the submission for rezoning is within scope of the Variation**

- [7] Counsel presented a synopsis of submissions to the Panel on Tuesday 4<sup>th</sup> August. Counsel is also aware that the Panel has been extensively addressed by other Counsel on the legal framework for scope and does not attempt to reframe or repeat those points.
- [8] I agree with Council for QLDC that the relevant authorities on scope issues are relatively well-established; however, their application on the facts of a particular case are more nuanced / contentious.
- [9] Applying the High Court's two stage assessment from *Motor Machinists Limited*<sup>8</sup> and *Clearwater Resort Limited*<sup>9</sup> provides a useful framework to step through in this process.
  - (a) **First Limb** – Whether the relief sought in the submission falls within the plan change made by the Variation; and
  - (b) **Second Limb** – Whether there is a real risk that people directly or potentially affected by the Variation (if modified in response to the

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<sup>4</sup> Ibid, at [36].

<sup>5</sup> Ibid, at [41].

<sup>6</sup> Evidence of Mr Garth Falconner, at [21].

<sup>7</sup> Ibid, at [19].

<sup>8</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290.

<sup>9</sup> *Clearwater Resort Ltd v Christchurch City Council* HC Christchurch AP34/02, 14 March 2003.

submission) would be denied an effective opportunity to participate in the process.

[10] These limbs have essentially been applied (and further expanded or modified in recent Environment Court cases:

- (a) *Bluehaven Management Ltd v Western Bay of Plenty District Council* [2016] NZEnvC 191.
- (b) *Paterson Pitts Ltd Partnership v Dunedin City Council* [2022] NZEnvC 234.
- (c) *Burdon and others v Queenstown Lakes District Council* [2025] NZEnvC 122.

[11] The questions on whether submissions are on a plan change or not are highly context and fact specific. Each case requires a close assessment of the purpose and policy direction of the Variation, the section 32 analysis and related notification process, the extent of the change being sought through submissions relative to any further s 32 assessment, the facts and evidence in relation to the change sought, and the public participatory process.

[12] More details are set out in **Appendix 1** of these legal submissions on case law and the Variation as notified. A summary of those specific to City Impact Church and 1 Hansen are set out below.

*First Limb – Whether the submission addresses change to the status quo*

[13] The Submitters' position is that the relief seeking to extend urban zoning into discreet areas of some PDP zoned Rural land is within the scope of the Variation and Panel's jurisdiction and may be considered on a case-by-case basis because:

- (a) The Variation alters the 'status quo' in respect of the Sites. Both Sites are subject to zones that are amended by the Variation as they are split zoned. They are also directly adjacent to existing urban areas that are being 'upzoned' – the Frankton LSCZ and BMUZ. The split zoning of the Sites between Rural and development land will create a change to the status quo in terms

of layout and density of development, overall use and access of the Site, changes to character and visibility.

- (b) The context and purpose of the Variation is to consider appropriate areas for increased density commensurate with the greater of accessibility or relative demand. Where a slight adjustment on a split zoned PDP site can deliver positively on those intended outcomes (and align with the broader intentions and objectives of the NPS-UD) that is relief which engages directly with the Variation.
- (c) The Variation is an appropriate and efficient opportunity for PDP landowners to engage in an examination of the edges of the existing urban environment, and whether those continue to be defensible and appropriate. If such land does not exhibit qualities and characteristics defining a section 6(b) landscape status, then this process is an appropriate opportunity to examine that.<sup>10</sup> The ONL as applied to the Sites presents an impractical boundary and does not reflect a delineation in section 6(b) landscape values / character on the ground. Landscape evidence provided by Mr Falconer outlines that the area sought for rezoning does not display any of the character or values consistent with the ONL.<sup>11</sup>
- (d) PDP zoning was reviewed as part of the s 32 assessment with rezoning possible where this met the purpose of Policy 5 of the NPS-UD. Recommendations were made to rezone areas where commercial nodes are strengthened through surrounding upzoning and / or transport corridors are also improved.<sup>12</sup> Ms Scott in her opening legal submissions for the Council noted that the scope of rezoning requests is limited to being close to the commercial areas of Queenstown, Frankton, and Wanaka.<sup>13</sup> As outlined in the evidence of Ms Clouston, the surrounding context of the Sites has changed; land surrounding the sites has been upzoned, consenting has been progressed the Sites, and they are

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<sup>10</sup> Evidence of Ms Charlotte Clouston at [54]-[56].

<sup>11</sup> Evidence of Mr Garth Falconer at [65].

<sup>12</sup> Section 32 assessment at p. 32.

<sup>13</sup> Opening legal submissions for the Council, Appendix 1 at [1.9].

in close proximity to employment, commercial opportunities, and public transport. As such, this surrounding context provides that rezoning to BMUZ is appropriate for the entirety of the Sites and this would meet the purpose of Policy 5.<sup>14</sup>

[14] Any s 32 report or notice seeking to preclude a right of submissions seeking to change the extent of an urban environment and extend urban zoning is not determinative of the issue of scope.<sup>15</sup> That aside, it is submitted that the s 32 report and public notices are less explicit in the exclusion of rural land, for example:

(a) The QLDC webpage includes a section 'about the urban intensification variation' this states:

QLDC's Urban Intensification Variation implements policy 5 of the NPS-UD, which directs councils to enable more height and density in certain locations. It also aims to implement the wider directive of the NPS-UD, to ensure well-functioning urban environments that meet the changing needs of our diverse communities and future generations.

...

This variation does not apply to land where Operative District Plan (ODP) zones apply. The approach for urban ODP land is that the NPS-UD will be implemented when each ODP zone is reviewed through the district plan review work programme.<sup>16</sup>

(b) This clearly suggests that more height and density in certain locations may be appropriate where that contributes to an outcome of (or 'ensures') a well-functioning urban environment. There is a clear difference in the way ODP land is separated out, but this is much less explicit in respect of rural land / land outside of the urban environment.

(c) The QLDC public notice states:

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<sup>14</sup> At [45]-[51] and [63]-[74].

<sup>15</sup> *Burdon*, at [57b].

<sup>16</sup> Found at: <https://www.qldc.govt.nz/your-council/district-plan/urban-intensification-variation/>

This proposal seeks to amend the PDP by increasing heights and densities in some zones in the Urban environment as well as rezoning land close to the commercial areas in Queenstown, Frankton and Wānaka to enable intensification of development<sup>17</sup>.

- (d) In my submission, the notice suggests that there are two component parts for submissions to address. Firstly, that is increasing heights and densities in some zones in the urban environment, and secondly, to rezone land 'close to commercial areas'. The latter is not specifically linked to consideration of only sites in the urban environment. As above, the public notice is more explicitly however linked to PDP land (as a variation initiated under clause 16) rather than a change to ODP land.
- (e) Page 4 of the Council's fact sheet for the Variation states that 'the proposed variation applies to existing urban areas within the PDP' however page 2 also states that the changes 'include proposals to rezone land close to commercial areas in Queenstown, Frankton and Wānaka to enable intensification of development'. In my submission, the latter is similarly a high level signal that suitably close and proximate locations in PDP zones not within the existing urban environment would be amenable to submissions<sup>18</sup>.
- (f) Finally, the s 32 report does state that accessibility and demand modelling and analysis was undertaken within the urban environment, and it does state concerns as to urban expansion where that would affect landscape, rural character and soil values,<sup>19</sup> however it does not seem to explicitly preclude the potential for rezoning rural land. For example, page 18 includes a specific section explaining the reasons for excluding PC50 operative zoned land but there is no similar exclusion in respect of non-urban PDP land.<sup>20</sup>

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<sup>17</sup> Found at: <https://www.qldc.govt.nz/media/0wfpozvr/public-notice-urban-intensification-variation-nps-ud-24-aug-2023.pdf>

<sup>18</sup> Found at: [https://www.qldc.govt.nz/media/01cj5u42/qldc\\_urban-intensification-variation\\_a4-factsheet\\_aug23-web.pdf](https://www.qldc.govt.nz/media/01cj5u42/qldc_urban-intensification-variation_a4-factsheet_aug23-web.pdf)

<sup>19</sup> S32 report, at page 90.

<sup>20</sup> Found at: [https://www.qldc.govt.nz/media/nuonhza2/s32\\_urban-intensification-variation-npsud-policy-5-plan-variation-final-for-notification-lhs.pdf](https://www.qldc.govt.nz/media/nuonhza2/s32_urban-intensification-variation-npsud-policy-5-plan-variation-final-for-notification-lhs.pdf)



- [15] These statements aside, an overall approach to Limb 1 is to consider whether the submission raises matters that should have been addressed in the s 32 evaluation and report (not simply whether the s 32 report did, or did not, address it).<sup>21</sup>
- [16] It is submitted that the NPS-UD did not restrict the Council to only considering the existing 'urban environment' as defined in the NPS-UD. More detail is set out in Appendix 1 of these submissions on this issue. In summary, when looking at the drafting of policy 1, clause 1.3 (application of the NPS-UD), and the wider NPS-UD context, the plain and ordinary wording does not clearly preclude consideration of rural to urban rezoning to achieve suitable intensification. In my submission, Policy 5 directs local authorities with district plans that host a tier 2 urban environment to determine suitable ways in which to locate and zone intensification relative to accessibility and demand.
- [17] Had the NPS-UD intended to preclude such outcomes, the drafting simply could have stated that Policy 5 directs intensification within a tier 2 urban environment in a district plan.
- [18] The NPS-UD focusses on creating the outcome of well-functioning urban environments as defined, rather than limiting its application only to those urban environments as defined. The introductory guide to the NPS-UD describes Policy 1 as an 'outcomes framework for planning and decision making.'<sup>22</sup>
- [19] Given the Variation process seeks to implement commensurate increased density with accessibility or high relative demand pursuant to Policy 5, the s 32 evaluation should have considered suitable urban extensions adjacent to existing urban development where that would:
- (a) Create an outcome of a well-functioning urban environment.
  - (b) Be consistent with zoning and density patterning that performs well in terms of accessibility and addresses relative demand.

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<sup>21</sup> *Bluehaven Management Ltd v Western Bay of Plenty District Council* [2016] NZEnvC 191 at [39].

<sup>22</sup> Found at: <https://environment.govt.nz/assets/Publications/Files/Introductory-Guide-to-the-National-Policy-Statement-on-Urban-Development-2020.pdf>

- (c) Reflect landscape evidence that supports a realignment of any ONL / RCL classifications.
- (d) Be consistent with achieving a 'well-functioning urban environment' and serving the policy intent of the NPS-UD as a whole.

[20] These outcomes are particularly relevant for the Submitters' Sites, which performed well in accessibility / relative demand.<sup>23</sup>

### **Second Limb – Issues of procedural fairness**

[21] It could be reasonably anticipated that the Variation, which seeks both rezonings already (within urban environments) and significant uplift in density and heights, that submitters would seek relief for rural rezoning on adjacent PDP land, particularly where:

- (a) sites are directly influenced by adjacency of those changes (in this case the split zoning of the Sites is highly relevant);
- (b) in the context of urban edges which are not particularly landscape based or defensible;
- (c) in the context of the PDP zoning which is now almost a decade since notification; and
- (d) in the context of a Variation which is responding to the NPS-UD policy intention of generally enabling growth, density, development opportunity, and sufficient capacity.

[22] As stated in the *Burdon* case, an approach to this Limb 2 very much calls for bespoke contextual assessment.<sup>24</sup> That is both in terms of the site in question and its environmental factors and any effects of the relief sought, as well as the context of the Variation proposal.

[23] The Sites were included in the Variation (given the split zoning) and rezoning requests formed part of the Submitters' first submission on the Variation. As such, the public had the opportunity to read this submission

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<sup>23</sup> Section 32 assessment at p. 45 and Appendix 3 at [7.1.1].  
<sup>24</sup> At [31].

and elect whether to make further submissions opposing aspects of the Submitters' relief. The relief sought by the Submitters is limited to a small portion of land owned by the Submitters which would align zoning within the Sites, rather than having split Rural / urban zoning within the UGB of the Sites.

- [24] Existing consented development of the Sites, their relatively low rural and landscape qualities as compared to being wider 'public facing' also contribute to the reasonably foreseeable nature of the relief now being sought.
- [25] While it is acknowledged that *Burdon* did not consider consequential changes to ONL/F mapping to be within scope (despite allowing for changes to priority area boundaries), respectfully, the situation in this case is different. The ONL within the Sites represents an arbitrary boundary, mapped at a high level. This is evident in the application of the ONL to the Sites, where it runs through the existing building on the City Impact Church Land. Comparatively, the ONL runs along the property boundary of neighbouring properties.<sup>25</sup>

## **Conclusion**

- [26] It is submitted that the proposed rezoning of the Submitters' land is within scope as it fits the purpose of Policy 5 of the NPS-UD. Incidental or consequential adjustment to the ONL boundary and UGB are also within scope to better enable the use of the land according to Policy 5. Adjustment of the ONL boundary will also apply a more practical boundary to the Sites.
- [27] Ms Clouston will further discuss how the Sites perform in terms of accessibility / demand and other relief sought.
- [28] Mr Falconer will further discuss the landscape values of the Sites and how these may be affected by the relief sought by the Submitters.

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<sup>25</sup> Evidence of Mr Garth Falconer at [19]-[21] and [64]-[69].

**Dated: 7 August 2025**

**R E M Hill  
Counsel for the Submitters**

## Appendix 1: Further Legal Submissions on Scope

- [1] The principles as to whether a submission is 'on' a plan change, proposed plan, or variation to a proposed plan are relatively well established. The commonly referred to authority is that of the High Court in *Motor Machinists Limited*<sup>26</sup> in which the Court endorsed a following two-limb test established in *Clearwater Resort Limited*:<sup>27</sup>
- (a) **First Limb** – Whether the relief sought in the submission falls within the plan change made to the status quo by the Variation; and
  - (b) **Second Limb** – Whether there is a real risk that people directly or potentially affected by the Variation (if modified in response to the submission) would be denied an effective opportunity to participate in the process.
- [2] The application of each of these limbs is discussed further below.

### *First Limb – Addressing change to the status quo*

- [3] The first limb acts as a filter, considering the connection between the submission and the degree of change to the existing plan proposed in the notified plan change. In itself, this involves two aspects:<sup>28</sup>
- (a) The breadth of alteration to the status quo entailed in the plan change; and
  - (b) Whether the submission addresses that alteration.
- [4] The High Court in *Motor Machinists* suggests that this can be determined by contextual analysis, looking beyond the proposed plan change itself. For example, by considering whether the submission raises matters that should have been addressed in the s 32 evaluation and report or whether the management regime for the resource (e.g. a particular lot) is altered by the plan change.

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<sup>26</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290.

<sup>27</sup> *Clearwater Resort Ltd v Christchurch City Council* HC Christchurch AP34/02, 14 March 2003.

<sup>28</sup> *Motor Machinists* at [80].

- [5] Zoning extensions are not completely ruled out by the *Motor Machinists* test. Consequential or incidental extensions to a notified zoning are permissible, provided that no further substantial s 32 analysis is required.<sup>29</sup> The High Court in *Motor Machinists* held that in relation to rezoning relief, submitters are not necessarily confined to the land that has been notified to be rezoned. In that case, the applicant sought to include a small area of land within the plan change for rezoning.
- [6] Furthermore, land that is adjacent to an area proposed to be rezoned may fall within this exception.<sup>30</sup> This is particularly relevant for submitters in this Variation seeking to extend urban zoning onto adjacent PDP Rural zoned land, where such land is directly influenced and affected by the Variation changes to the urban zoned land.
- [7] Although each case needs to be considered on its own facts, these legal principles cannot be applied in a vacuum. There are also local examples of land falling outside a notified plan change area being included in a variation as relief sought in submissions.
- (a) For example, a substantial area of land was rezoned by the Te Putahi Ladies Mile Variation after submissions requesting its rezoning, despite that land not being included in the notified version of that variation. While not binding, the Panel's approach to that determination is of some assistance in considering the scope of the notification and s 32 report, the matters that should have been considered as part of the same (particularly as guided by the overall purpose and intent of the Variation).
- (b) Similarly, in the recent landscape scheduled variation process, the Environment Court disagreed with submissions for the Council that submissions seeking to amend the extent of notified priority area boundaries were out of scope, despite s 32 documentation and public notices attempting to preclude such submissions.<sup>31</sup>

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<sup>29</sup> At [81].

<sup>30</sup> *Tussock Rise Ltd v Queenstown Lakes District Council* [2019] NZEnvC 111 at [69]-[90].

<sup>31</sup> *Burdon and others v Queenstown Lakes District Council* [2025] NZEnvC 122.

### *Second Limb – Creating issues of procedural fairness*

- [8] The underlying principle of the second limb is procedural fairness. It considers whether potential submitters have been given fair and adequate notice of the relief proposed in the submission, or whether their right to participate in the process has been removed.<sup>32</sup>
- [9] This limb seeks to decrease the risk of left field or submissional side winds.<sup>33</sup>
- [10] An important question is whether there is a real risk that persons directly or potentially affected by the additional changes proposed in the submission have been denied an effective response to those additional changes.<sup>34</sup> The nature of PDP Rural zoned land is important in that it was the subject of review almost a decade ago, has had limited options for a plan change process, and would be able to be efficiently varied as part of the Council's current intensification Variation to the PDP.

### *The purpose and scope of the Variation*

- [11] The Council provided several statutory and non-statutory documents to explain the purpose and effect of the Variation:
- (a) Statutory documents included the public notice, section 32 evaluation report (and supporting appendices), and amended PDP provisions.
  - (b) A suite of non-statutory documents was also produced by the Council, including a fact sheet and story map providing a side-by-side comparison of current / proposed zoning.
- [12] Collectively, the detailed content of the Council's notification and s 32 documents suggest the Variation is intended to be a substantial plan change to the PDP, creating significant changes to the intensity of urban environments across the District and increasing development options and capacity.

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<sup>32</sup> *Motor Machinists* at [77].

<sup>33</sup> *Clearwater* at [69].

<sup>34</sup> *Motor Machinists* at [82].

[13] These documents outline that the Variation seeks to give effect to Policy 5 of the NPS-UD. Policy 5 of the NPS-UD and related definitions provide:

- (a) Policy 5: Regional policy statements and district plans **applying to tier 2 and 3 urban environments** enable heights and density of urban form commensurate with the greater of: the level of accessibility by existing or planned active or public transport to a range of commercial activities and community services; or relative demand for housing and business use in that location.

Related definitions:

- (b) **Urban environment** means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that: is, or is intended to be, predominantly urban in character; and is, or is intended to be, part of a housing and labour market of at least 10,000 people.
- (c) **tier 2 urban environment** means an urban environment listed in column 1 of table 2 in the Appendix.
- (d) **Clause 1.3 Application**

(1) This National Policy Statement applies to:

**all local authorities that have all or part of an urban environment within their district or region (ie, tier 1, 2 and 3 local authorities); and**

**planning decisions by any local authority that affect an urban environment.**

(2) However, some objectives, policies, and provisions in Parts 3 and 4 apply only to tier 1, 2, or 3 local authorities.

[14] I note that Council's opening legal submissions suggest that Policy 5 and the wider NPS-UD apply only to the urban environment. However, in my submission, this is not evidence from the plain reading of the drafting of the NPS-UD. If that has been the intention, the drafting of Policy 5 could simply have said that district plans applying to tier 2 urban environments



enable [intensification] within the urban environment. Rather, in my submission, the drafting of Policy 5 is intended to capture a district plan which includes a tier 2 environment (i.e. the QLDC PDP), it then directs an analysis of accessibility and relative demand to inform planning determinations of where commensurate height and density will go. The result of that process must be a 'well functioning urban environment' as defined in Policy 1.

- [15] Furthermore, clause 1.3 application states that the NPS-UD applies to local authorities with part of an urban environment in their district and planning decisions that affect urban environments. If the intention were for the NPS-UD to be precluded in any consideration of rural land rezoning, this clause would more explicitly have said that the NPS applies to planning decisions 'within urban environments' or similar. The Variation as a whole is a planning decision that affects an urban environment, however that does not preclude considering suitable rezoning of rural PDP land where that otherwise achieves Policy 5, Policy 1 and 2, and the wider NPS-UD.
- [16] Policy 5 of the NPS-UD seeks to ensure intensification of plans applying to Tier 2 urban environments. Central to the NPS-UD intensification provisions is enabling intensification in desirable and suitable locations to support well-functioning urban environments and improve housing affordability. Expected outcomes include:<sup>35</sup>
- (a) people living and working in parts of urban areas that are in or around city centres, or other locations with good access to jobs;
  - (b) people have good accessibility to public transport in areas that are zoned for higher densities;
  - (c) there are limited constraints / barriers on development in areas where demand and accessibility are high;

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<sup>35</sup> Ministry for the Environment, *Understanding and implementing intensification provisions for the National Policy Statement on Urban Development*, p. 10. Accessed at: <https://environment.govt.nz/assets/Publications/Files/Understanding-and-implementing-intensification-provisions-for-NPS-UD.pdf>.

- (d) there is enough development capacity to support growth in parts of urban areas where demand is high; and
- (e) well-functioning urban environments that are dynamic and respond to the diverse and changing needs of communities.

- [17] The Ministry for the Environment notes that the intensification provisions of the NPS-UD are particularly important where they apply in areas close to current or planned rapid transit and frequent public transport services, as well as places where people can access many opportunities within walking distance.<sup>36</sup>
- [18] Neither the text of the NPS-UD itself, nor implementation guidance issued by the Ministry for the Environment, explicitly restrict implementation to just the defined 'urban environment' existing as at the date of an intensification plan change or variation. The NPS-UD directs local authorities to plan for growth, both up and out<sup>37</sup> – within existing urban areas and expansion into new areas where required. Therefore, it does not preclude consideration where adjacent areas outside of the 'urban environment' as defined could be considered in terms of accessibility and demand suitability, to be included for intensification. That would particularly be the case where the inclusion of that land achieves the overall intent of the NPS-UD and result in a 'well-functioning urban environment' consistent with Policy 1.
- [19] Guidance issued by the Ministry for the Environment<sup>38</sup> outlines implementation requirements and methods that local authorities can employ to ensure plans meet the objectives of the NPS-UD. Rezoning is included as a method of implementation. As such, the Council is not restricted to current urban zoned areas as forming part of the urban environment and could rezone adjacent Rural zoned areas that would perform well in terms of accessibility and demand.
- [20] The National Policy Statement on Highly Productive Land allows for the urban rezoning of highly productive land, where this is required to give

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<sup>36</sup> Ibid, at p. 10.

<sup>37</sup> As does the Going for Growth strategy.

<sup>38</sup> Accessed at: <https://environment.govt.nz/assets/Publications/Files/Understanding-and-implementing-intensification-provisions-for-NPS-UD.pdf>.

effect to the NPS-UD.<sup>39</sup> It follows that general Rural zoned land, subject to lesser protections / constraints, may also be rezoned in a variation process seeking to implement the NPS-UD.

- [21] Submissions in relation to PDP land proposing an alternative way that achieves the intent and purpose of Policy 5 and the NPS-UD may be considered to be on the Variation, depending on their location, context, and the extent of further s 32 analysis required (or the degree of change).
- [22] In the context of the HBA assessment and the enabling framework of the NPS-UD, where PDP zoned land might be foreseeably extended into the urban environment and indicated for intensification, this would be an appropriate way to achieve the intent of the Variation and should therefore be subject to consideration.
- [23] Each case for rezoning extension in this Variation will be fact specific, it may depend on matters such as the degree of change to the status quo of that land, the degree to which substantial further s 32 analysis would be required, and to what extent the change might create broader interests of natural justice and fairness, as opposed to a more insular zoning outcome.

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<sup>39</sup> At 3.6.