

2 July 2024

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Tēnā koe,

## **DECISIONS TO GRANT NON-COMPLYING SUBDIVISION AND LAND USE RESOURCE CONSENTS FOR LAND IN PROXIMITY TO SILVER FERN FARMS HOKITIKA PLANT**

- 1 We represent Silver Fern Farms Limited (*Silver Fern Farms*).
- 2 Silver Fern Farms owns and operates a meat processing facility at 140 Kumara Junction Highway, Hokitika 7882 (*Hokitika Silver Ferns Farms Site*).<sup>1</sup>
- 3 This letter addresses Silver Fern Farms' concerns regarding the Westland District Council (*WDC* or *Council*) decision to issue resource consents to the Norwest Estate Subdivision—Seaview Hill Road, Hokitika Westland (*Norwest Estate*) under the operative Westland District Plan without notification to Silver Fern Farms or consideration of incomparability between the Norwest Estate and the meat processing facility.  
**Te Tai o Poutini Plan**
- 4 The Te Tai o Poutini Plan (*TTPP*) is the combined district Plan for the Buller, Grey, and Westland districts and will replace the current individual operative district plans. The TTPP was publicly notified as a proposed plan on 14 July 2022 (*proposed TTPP*).
- 5 In regard to the proposed TTPP, Silver Fern Farms (S441.071, S441.062) sought that the General Residential Zone (*GRZ*) be removed from the land in proximity to the Hokitika Silver Fern Farms Site, and the General Industrial Zone (*GIZ*) be applied to the Hokitika Silver Fern Farms Site.
- 6 Through their involvement with the proposed TTPP, Silver Fern Farms has become aware of the Norwest Estate, which is in close proximity to the Hokitika Silver Ferns Farms Site.<sup>2</sup> It was not previously aware of the consent of the Norwest Estate.
- 7 The Te Tai o Poutini Plan Section 42A Officer's Report Residential Zones – Ngā Takiwa Noho (*Section 42A Report*) acknowledges the close proximity of the Norwest Estate to the Hokitika Silver Fern Farms Site and the potential risk of reverse sensitivity effects.

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<sup>1</sup> Legal Description: Lot 1 DP 545864 and Lot 2 DP 545864.

<sup>2</sup> Legal Description: RS 1137 and 5340, and Part RS 1144.



- 8 The 42A Report recommends mitigating this risk by including five lots in a Rural Lifestyle Zone instead of a GRZ, as follows:

*"320. Silver Fern Farms (S441.071, S441.062) seek that the residential zoning from the land adjacent to the Hokitika Silver Fern Farms Site be removed. This is shown on the map below.*

*321. I share the concern of Silver Ferns Farms about the reverse sensitivity issues associated with this rezoning. I visited the site on 29 April 2024 and observed that the subdivision of this land for residential properties has already occurred, the roads are built and the houses are under construction. I have discussed this matter with the Westland District Council and they have confirmed that consents have been granted under the operative Westland District Plan and Council infrastructure (wastewater, water supply and stormwater) is already in place. I therefore must conclude that a General Rural Zone would be inappropriate for land that is now subdivided and sold for residential development at urban densities. The Westland District Council have indicated that some lots have not been approved to full residential densities, and these could potentially be rezoned as Rural Lifestyle Zone in order to reduce the risk of further reverse sensitivity issues which I recommend. I therefore support this submission in part."*

#### **Norwest Estate Subdivision Resource Consents**

- 9 Since becoming aware of the Norwest Estate via the Section 42A Report, Silver Fern Farms has requested further information from the Council in relation to the granting of resource consents for the Norwest Estate.
- 10 The Norwest Estate is located south of the Hokitika Silver Fern Farms Site and comprises 41 lots with land use consents for 35 dwellings.
- 11 We understand pursuant to section 104B and 104D of the Resource Management Act 1991 (*RMA*), the Council has granted in relation to the Norwest Estate:
- 11.1 In August 2021, variations (Resource Consent Numbers: 210057 and 210058) to the first stage (14 lots and 10 dwellings) non-complying subdivision and land use resource consents (Resource Consent Numbers: 170104 and 170105);
- 11.2 In August 2022, for the second stage (25 lots and 23 dwellings), non-complying subdivision and land use resource consents (Resource Consent Numbers 210211 and 210123); and
- 11.3 In June 2023, subsequent variations to the second stage to non-complying subdivision and land use resource consents (Resource Consent Numbers 230033 and 230034)).

*(Resource Consents)*



- 12 We understand that certification was issued under section 224 of the RMA for the first stage (14 lots and 10 dwellings) of the Norwest Estate in July 2023 and for the second stage (27 lots and 25 dwellings) in January 2024.
- 13 Silver Fern Farms was concerned to read the decisions on the Resource Consent applications. In particular, Silver Fern Farms is concerned with the findings in the Notification Assessments dated 22 July 2021, 18 August 2022, and 31 May 2023 (*Notification Assessments*), which influenced the Council's section 104 analysis for the Resource Consents.
- 14 In regard to the Resource Consent decisions and Notification Assessments, we note:
- 14.1 The Council officer(s) failed to even identify Silver Fern Farms in the Notification Assessments. Both the Notification Decisions and the Resource Consent decisions failed to record that the application site is located in close proximity to the Hokitika Silver Fern Farms Site.
- 14.2 The Resource Consent decisions and Notification Assessments have relied on a noise assessment dated 18 June 2021 (*Noise Assessment*) undertaken in relation to the stage one subdivision. The Noise Assessment was aligned to noise from the State Highway and whether a level of 40 dB (condition 5) would be achieved in habitable spaces within 80 m of SH6, but failed to identify the industrial activities undertaken at the Hokitika Silver Ferns Farms Site which also generate noise.
- 14.3 In particular, in the recommendations on notification, in relation to the Noise Assessment, the officer stated that:<sup>3</sup>
- "the applicant has provided an acoustic design advice report produced by Powell Fenwick engineers. This report noted that the internal noise levels in habitable space resulting from road, business and aircraft environmental noise are expected to achieve internal noise levels of 40 dBL<sub>aeq</sub>(24h) without building enhancements being necessary. **Due to the location of proposed new Lots 26 and 27, it is reasonable to consider these allotments will achieve the same acoustic outcomes as those adjoining allotments already approved. No further assessment is considered necessary.***
- As a result, reverse sensitivity effects have been assessed to be less than minor and no affected parties have been identified."*
- 15 While the Resource Consents outline various consent notices and covenant requirements, none of these deal with potential reverse sensitivity effects on the Hokitika Silver Fern Farms Site.
- 16 Silver Fern Farms wishes to put the Council on notice that if it continues to exacerbate the situation and ignore reverse sensitivity effects on the Hokitika Silver Ferns Farms Site, Silver Fern Farms will have no option but to consider judicial review of the decision to grant the resource consents or declaration proceedings against the Council in respects of the Norwest Estate consents. Consistent and

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<sup>3</sup> Non-Notified Assessment dated 3 April 2023, at [15].



correct decisions on applications such as these are essential to avoid embarrassment and complications for applicants if consents are unwound after the event.

**Silver Fern Farms' Recommendations**

- 17 To ensure that issues in relation to the reverse sensitivity effects on the Hokitika Silver Ferns Farms Site are properly managed and the unfortunate situation is not made worse, Silver Fern Farms requests the Council, in relation to the proposed TTPP, to support its requests on residential rezoning.
- 18 Specifically, Silver Fern Farms requests that:
  - 18.1 The Norwest Estate residential subdivision that has recently been established near the Hokitika Silver Ferns Farms Site is located in the Rural Lifestyle Zone, not the GRZ recommended by the Section 42A Report.
  - 18.2 The seven longer established rural-residential lots separating the Hokitika Silver Ferns Farms Site from the Norwest Estate are included in the General Rural Zone rather than a mix of Rural Lifestyle Zone and GRZ recommended in the Section 42A Report.
- 19 Silver Fern Farms considers that this recommended zone configuration is likely to be an efficient and effective method to manage and minimise the potential reverse sensitivity effects identified by Silver Fern Farms and the Section 42A Report and to address the unhelpful situation that has arisen.
- 20 The specific reasons for the Silver Fern Farms requests are detailed in the following supporting documents, which have been **attached** to this letter:
  - 20.1 Statement of Evidence by Steve Tuck (Planning) dated 14 June 2024 (**Appendix One**); and
  - 20.2 Supplementary Statement of Evidence by Darran Humpheson (Noise), dated 14 June 2024 (**Appendix Two**).

Yours sincerely

Jo Appleyard / Tallulah Parker



**Appendix One: Statement of Evidence by Steve Tuck (Planning), dated 14 June 2024**

BEFORE THE HEARINGS PANEL FOR THE PROPOSED TE TAI O POUTINI  
DISTRICT PLAN

**UNDER** the Resource Management Act 1991

**IN THE MATTER OF** the Proposed Te Tai o Poutini District Plan (Residential  
Zones)

**AND** Silver Fern Farms Limited

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**STATEMENT OF EVIDENCE BY STEVE TUCK (PLANNING)**

14 JUNE 2024

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## **1. INTRODUCTION**

- 1.1 My name is Steve Tuck. I am an Associate with Mitchell Daysh Limited, which is a resource management consultancy with offices around New Zealand.
- 1.2 My professional qualifications and experience are stated in my 17 October 2023 statement of evidence on the Strategic Directions chapter of the Proposed Te Tai o Poutini District Plan (“PDP”), which I prepared on behalf of Silver Fern Farms Limited (“Silver Fern Farms”).
- 1.3 Silver Fern Farms has asked me to provide planning evidence about the PDP’s residential zone provisions.

### **Code of Conduct**

- 1.4 While this is not an Environment Court hearing, I have read and agree to comply with the Expert Witness Code of Conduct set out in the Environment Court’s Practice Note 2023. This evidence is within my area of expertise, except where I state that I am relying upon material produced by another person. I have not omitted to consider material facts known to me that might alter or detract from my opinions.
- 1.5 In preparing this evidence I have read the following documents:
  - Te Tai o Poutini Plan Section 32 Evaluation Report Eleven Residential Zones Ngā Takiwā Noho (“section 32 Report”);
  - Te Tai o Poutini Plan Section 42A Officer’s Report Residential Zones – Ngā Takiwa Noho (“section 42A Report”);
  - The amended subdivision provisions recommended in Appendix 1 to the Te Tai o Poutini Plan Section 42A Officer’s Report Subdivision, Financial Contributions and Public Access; and
  - Mr Humpheson’s statement of evidence dated 7 March 2024 and his supplementary evidence dated 14 June 2024, relating to noise.

### **Scope of Evidence**

- 1.6 In this statement of evidence I will:
- a. Summarise the context of Silver Fern Farms' Hokitika site relevant to this hearing topic (Section 2);
  - b. Summarise the key strategic issues that the section 32 Report indicates influenced the development of the residential zone provisions (Section 3);
  - c. Outline the relief Silver Fern Farms sought on the notified PDP (Section 4);
  - d. Recap the section 42A Report recommendations on the relief sought by Silver Fern Farms (Section 5);
  - e. Provide the reasons why I disagree with the section 42A Report recommendations in respect of the relief sought by Silver Fern Farms, and outline my recommended amendments to the zone configuration and, as an alternative and secondary solution, amendments to the residential zone provisions (Section 6); and
  - f. Provide a concluding comment (Section 7).

### **Summary of recommendations**

- 1.7 In my view the northern area of the new "Norwest Estate" residential subdivision that has recently established near Silver Fern Farms' Hokitika meat processing facility<sup>1</sup> (the "Hokitika site") is most appropriately located in the Rural Lifestyle Zone, not the General Residential Zone recommended by the section 42A Report.
- 1.8 I consider that the seven longer established rural-residential lots separating the Hokitika site from the Norwest Estate are most appropriately included in the General Rural Zone, rather than the mix of Rural Lifestyle Zone and General Residential Zone recommended by the section 42A Report.

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<sup>1</sup> Being Lot 1 DP 545864 and Lot 2 DP 545864.



1.9 In the alternative, if the zonings recommended by the section 42A Report are supported by the Panel, my secondary recommendation is that amendments to the residential zone provisions will be necessary to ensure the Hokitika site is not compromised by reverse sensitivity effects. However, I consider that this would be an inferior solution to my recommended zone configuration.

## 2. SILVER FERN FARMS' HOKITIKA SITE CONTEXT

2.1 The Hokitika site was constructed in 1976. It comprises a meat processing plant, office, stockyards, car park and outdoor storage areas. It employs around 100 staff for 11 months of the year in the processing of deer, cattle and bobby calves. Activities at the Hokitika site include:

- a. Outdoor unloading and holding of livestock in paddocks;
- b. Discharges to air from a coal boiler, operated in accordance with a discharge permit that expires in 2032;
- c. Treatment of wastewater, prior to its discharge to nearby council-owned oxidation ponds in accordance with a Trade Waste Agreement;
- d. Use and storage of hazardous materials like ammonia; and
- e. Emissions of noise, light and odour and vehicle movements. As is often the case for industry, these are not confined to business hours.

2.2 Depending on the type of stock being processed, meat processing shifts may start or finish during the hours of 7PM to 7AM. It is worth noting that these are “night-time” hours for the PDP residential zones, during which lower noise limits apply.<sup>2</sup> In contrast, “night-time” hours for the PDP industrial zones are 10PM to 7AM.

2.3 The Hokitika site and surroundings have been in the Rural Zone since the operative Westland District Plan (“operative Plan”) commenced in 2002. Clause 5.6.1 of the operative Plan indicates that a Rural Zone was deliberately applied to the area, stating (**emphasis added**):

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<sup>2</sup> Rule NOISE R5(1).

*“...Land formerly zoned residential to the North of Hokitika which **may have poor amenity as a result of the venison factory and oxidation ponds** has been rezoned Rural”.*

- 2.4 I understand that “the venison factory” is the Hokitika site, which continues to process venison today.
- 2.5 As the aerial image at Figure 1 shows, the Hokitika site is large and further development is a possibility. If the General Industrial Zone (“GIZ”) is applied to the Hokitika site as the PDP proposes, substantial industrial development could be undertaken as-of-right. For example, Rule GIZ-R1 permits a 5 metre side setback, 80% site coverage and 20 metre tall buildings (with a boundary recession plane).



Figure 1: The Hokitika site.

- 2.6 Figure 2 locates the Hokitika site relative to its surroundings, which includes the Council’s existing wastewater treatment facility, State Highway 6 and the Hokitika Airport. Figure 2 also shows the location of a new residential subdivision called “Norwest Estate”, which I discuss later in this evidence.



Figure 2: Site context.

**Operative and proposed zoning**

- 2.7 Under the operative Plan, a Rural Zone applies to the Hokitika site and surroundings, shown in Figure 3 below (with my annotations added).
- 2.8 Under the notified PDP, the Hokitika site is proposed to be included in the GIZ. A General Residential Zone (“GRZ”) is proposed to be applied to adjacent land to the south. Figure 4 below shows the notified PDP zone configuration, with annotations I have added to identify the zones.

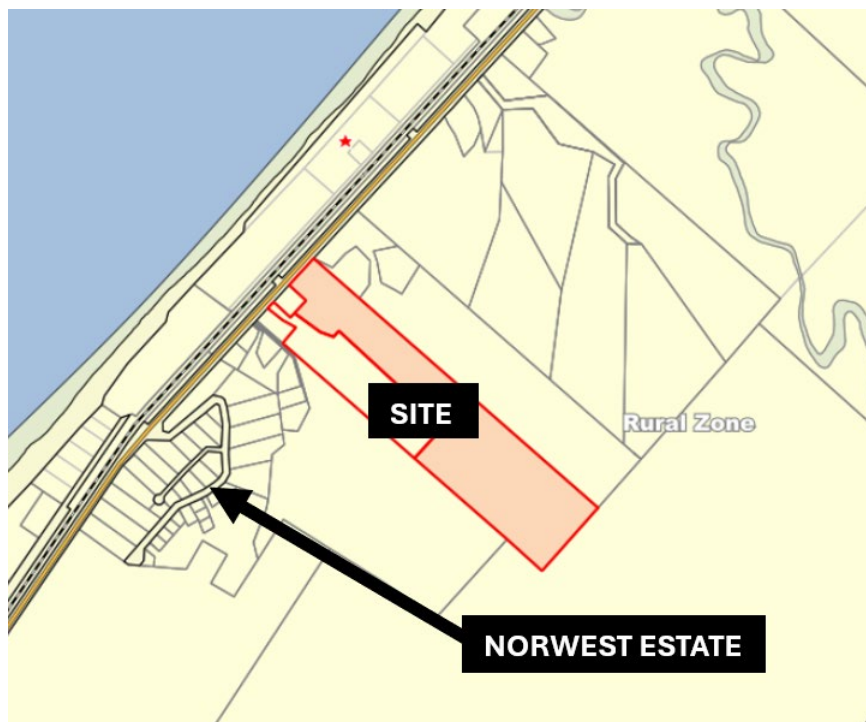


Figure 3: Operative Rural Zone.

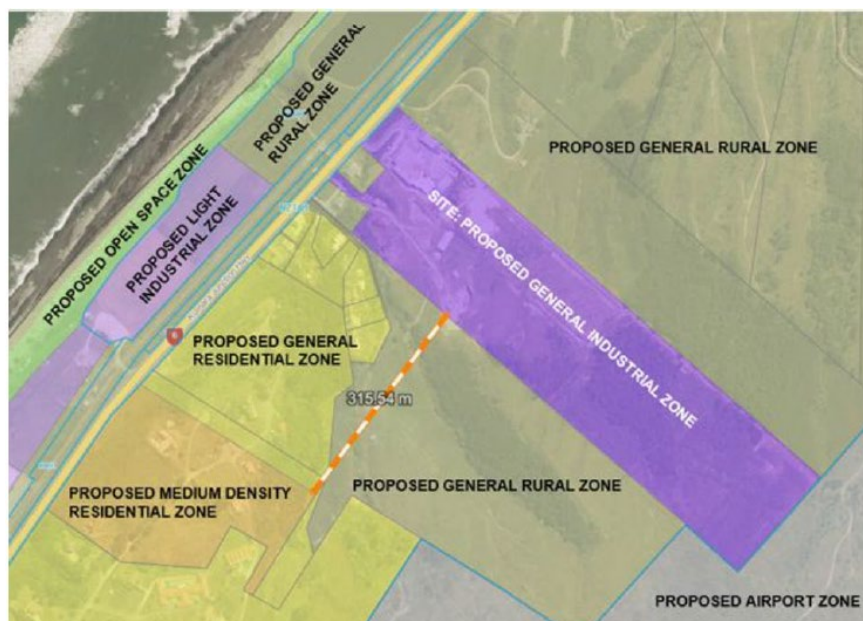


Figure 4: Notified PDP rezoning.

2.9 In partial recognition of the risk of reverse sensitivity effects raised in Silver Fern Farms' submission, the section 42A Report recommends amending the zoning shown in the notified PDP. It recommends that five rural-residential-style lots located immediately to the south of the Hokitika site be included in

the Rural Lifestyle Zone rather than the GRZ. Those lots identified by the section 42A Report are shown in Figure 5 with red dots.

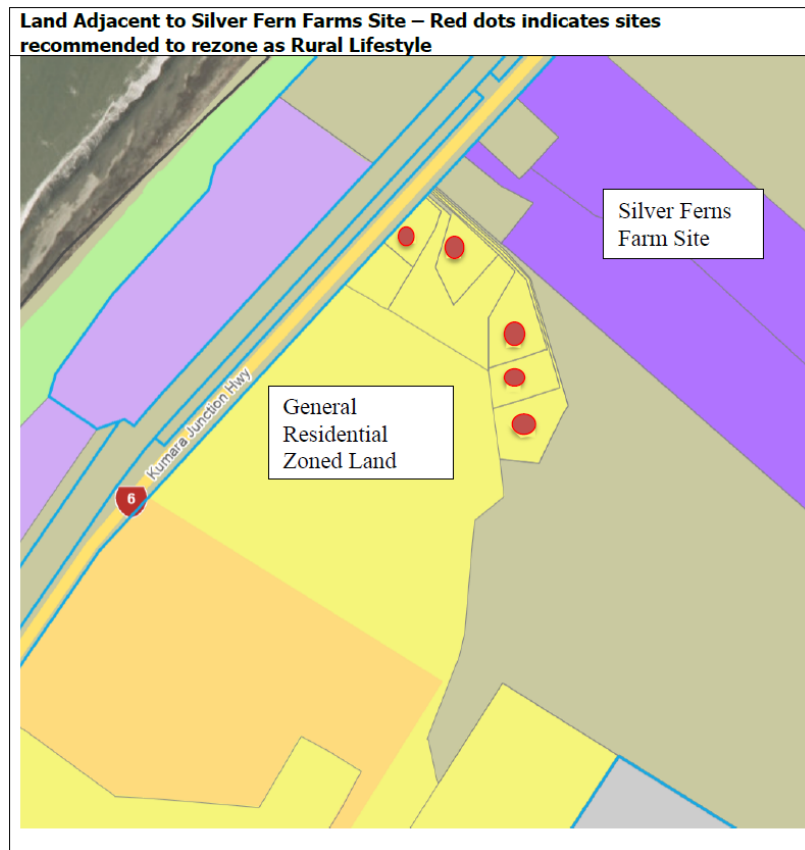


Figure 5: Rural Lifestyle Zone lots recommended by the section 42A Report.

### Surrounding lot configuration

2.10 The configuration of lots to the south of the Hokitika site includes:

- a. Seven established rural-residential-style lots immediately to the south. I refer to these as the “buffer lots” and they are marked with stars in Figures 6 and 7 below. Five of these are the lots that the section 42A Report recommends placing in the Rural Lifestyle Zone. As Figure 6 shows, these lots provide separation of about 96 metres between the Hokitika site and the Norwest Estate further south; and
- b. The new Norwest Estate south of the buffer lots. The subdivision comprises 41 lots with current land use consents for 35 dwellings.



Figure 6: The buffer lots.

2.11 Under the PDP, the northern part of the new Norwest Estate is partly in the GRZ, and the southern part is in the Medium Density Residential Zone (“MDRZ”), as shown in Figure 7 below.

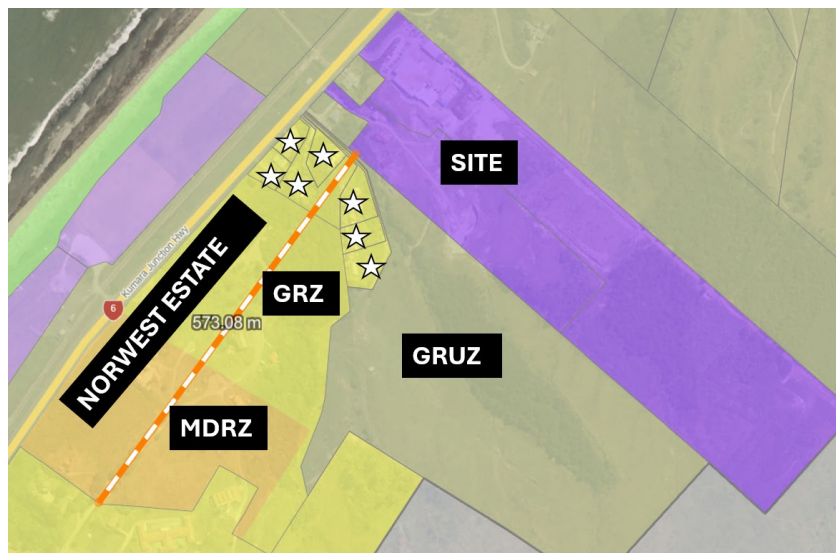


Figure 7: Norwest Estate zoning.

2.12 Figure 8 shows that the MDRZ is, at nearest, located approximately 341 m south of the Hokitika site's southern boundary.

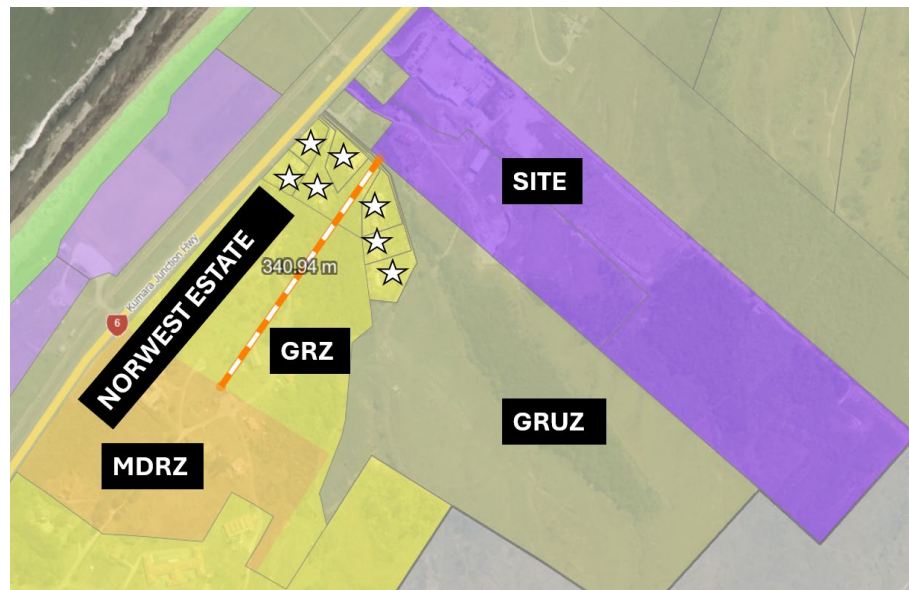


Figure 8: Setback between Hokitika site and proposed MDRZ.

#### **Norwest Estate residential subdivision**

2.13 I became aware that subdivision and land use consents were granted on a non-notified basis for non-complying residential subdivision and development in the operative Rural Zone at the Norwest Estate via commentary in the section 42A Report (discussed at section 5 below) and subsequent enquiries of Westland District Council.

2.14 I understand that certification was issued under section 224 of the Resource Management Act 1991 ("RMA") for the first stage (14 lots and 10 dwellings) of the Norwest Estate in July 2023, and for the second stage (27 lots and 25 dwellings) in January 2024. The approved scheme plans are provided in Appendix 1 and are replicated below.

2.15 I discuss the implications of this new subdivision later in this evidence, in relation to my recommended zone configuration.

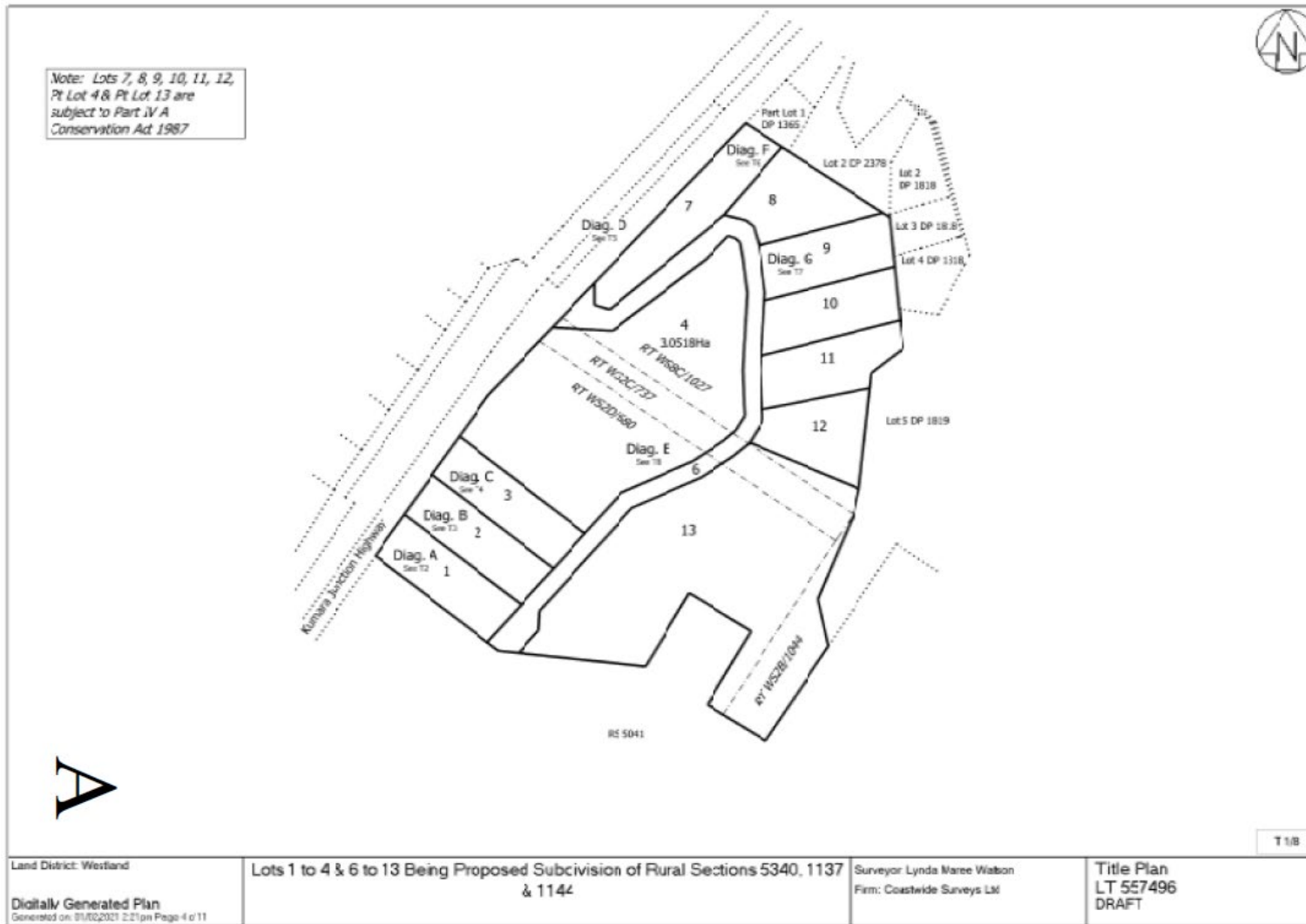


Figure 9: Norwest Estate stage 1 subdivision plan.



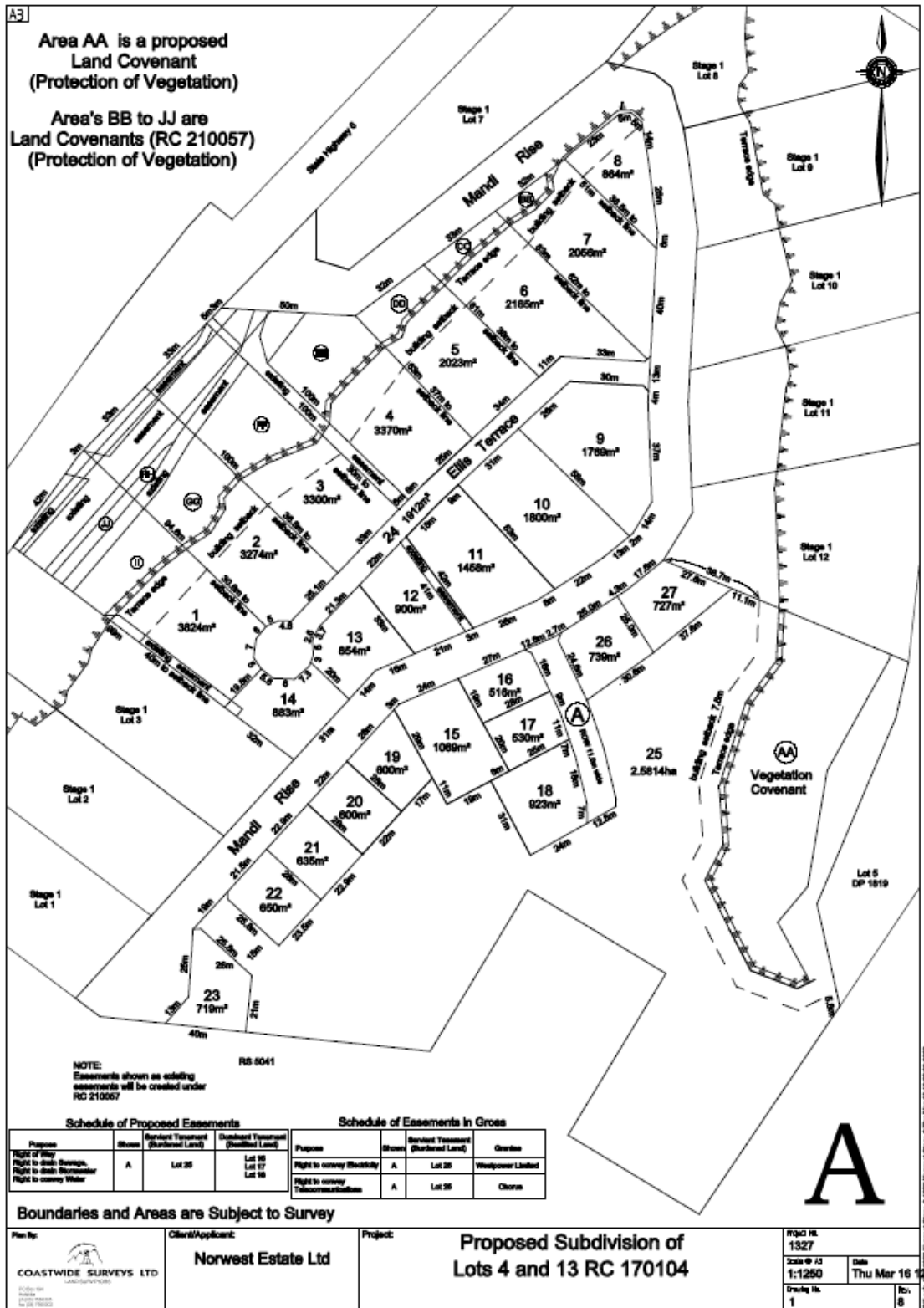


Figure 10: Norwest Estate stage 2 subdivision plan.

### 3. SECTION 32 REPORT ON STRATEGIC RESIDENTIAL ISSUES

3.1 The section 32 Report says the key resource management issues that informed development of the residential provisions are (**emphasis added**):

- *The need to provide for additional residential housing;*
- *The need for residential development to support the town centres and settlements;*
- *Ensuring that options are available for residential development away from the significant risks of natural hazards, including providing for managed retreat; and*
- ***Maintaining the quality of amenity provided within residential areas so that residents can continue to use, develop and enjoy their properties without their amenity being adversely affected by neighbouring development and use.***

3.2 The section 32 Report nominates unplanned urban growth at Greymouth, Hokitika and Westport as a particular concern (**emphasis added**):

***One of the first issues identified in the development of Te Tai o Poutini Plan was that the current land for housing was constrained, and that growth was occurring around the three main centres in particular in an unplanned way.***

3.3 Section 2.3.3. of the section 32 Report elaborates on the key strategic issues in the Westland District's specific context. It identifies that the historic co-location of incompatible activities has led to poor outcomes (**emphasis added**):

***... providing for "intermingling" of non-residential activities within residential areas... has however led to concerns over time about the impact of non-residential activities on the residential areas and that it has led to an undermining of commercially zoned land as a place to do business, resulting in inefficient use of commercially zoned land and associated infrastructure.***

3.4 Section 2.5 of the section 32 Report indicates that residential and non-residential land use conflicts should be avoided (**emphasis added**):

*Non-residential activities can impact on the character and amenity of neighbourhoods... Therefore, **a greater focus is needed on avoiding activities that conflict with the purpose of residential areas.***

3.5 In my view, the presence of the Norwest Estate, and relevantly to this hearing, the proposed retrospective rezoning of it to a GRZ, despite the significant established industrial and infrastructure features present, is at odds with the outcomes that the section 32 Report indicates the PDP's residential provisions should promote. I discuss this later in this evidence.

#### **4. SILVER FERN FARMS' CONCERNS**

4.1 Silver Fern Farms manages the effects of its Hokitika site in accordance with its resource consents and to a standard commensurate with the surrounding operative Rural Zone. In my opinion, the amenity expectations for rural zones encompass the noise, odours and vehicle, machinery and plant operation that characterise farming, primary production and rural industry activities.

4.2 In contrast, urban residential zones like the GRZ demand significantly higher amenity than that which typically characterises rural environments. However, amenity expectations are subjective. People's tolerance for effects like noise and odour varies greatly. Even activities that comply with applicable standards can be perceived as troublesome and can prompt complaints.

4.3 Silver Fern Farms is unlikely to be able to internalise all of the Hokitika site's effects to meet urban residential amenity expectations. As such, its submission seeks to protect the Hokitika site from reverse sensitivity effects. The relief sought includes:

- a. deleting the GRZ from the adjacent land to the Hokitika site;<sup>3</sup>
- b. amending policy RESZ-P16 to require that new residential development must avoid creating reverse sensitivity effects on existing business and industry<sup>4</sup>; and

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<sup>3</sup> Submission point number s441.062.

<sup>4</sup> Submission point number s441.071.

- c. disallowing the Te Tai o Poutini Plan Committee’s submissions seeking a new residential objective and policy in support of residential rezoning near the Hokitika site.<sup>5</sup>

## **5. SECTION 42A REPORT RECOMMENDATIONS**

- 5.1 The section 42A Report acknowledges the risk that the close proximity of the Norwest Estate to the Hokitika site will generate reverse sensitivity effects. It recommends mitigating this risk by including five of the buffer lots in a Rural Lifestyle Zone instead of a GRZ, as follows:

*320. Silver Fern Farms (S441.071, S441.062) seek that the residential zoning from the land adjacent to the Hokitika Silver Fern Farms Site be removed. This is shown on the map below.*

*321. I share the concern of Silver Ferns Farms about the reverse sensitivity issues associated with this rezoning. I visited the site on 29 April 2024 and observed that the subdivision of this land for residential properties has already occurred, the roads are built and the houses are under construction. I have discussed this matter with the Westland District Council and they have confirmed that consents have been granted under the operative Westland District Plan and Council infrastructure (wastewater, water supply and stormwater) is already in place. I therefore must conclude that a General Rural Zone would be inappropriate for land that is now subdivided and sold for residential development at urban densities. The Westland District Council have indicated that some lots have not been approved to full residential densities, and these could potentially be rezoned as Rural Lifestyle Zone in order to reduce the risk of further reverse sensitivity issues which I recommend. I therefore support this submission in part.*

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<sup>5</sup> Silver Fern Farms’ further submission points FS101.038 and FS101.039 on the TTPP Committee’s submission points s171.008 and s171.009.

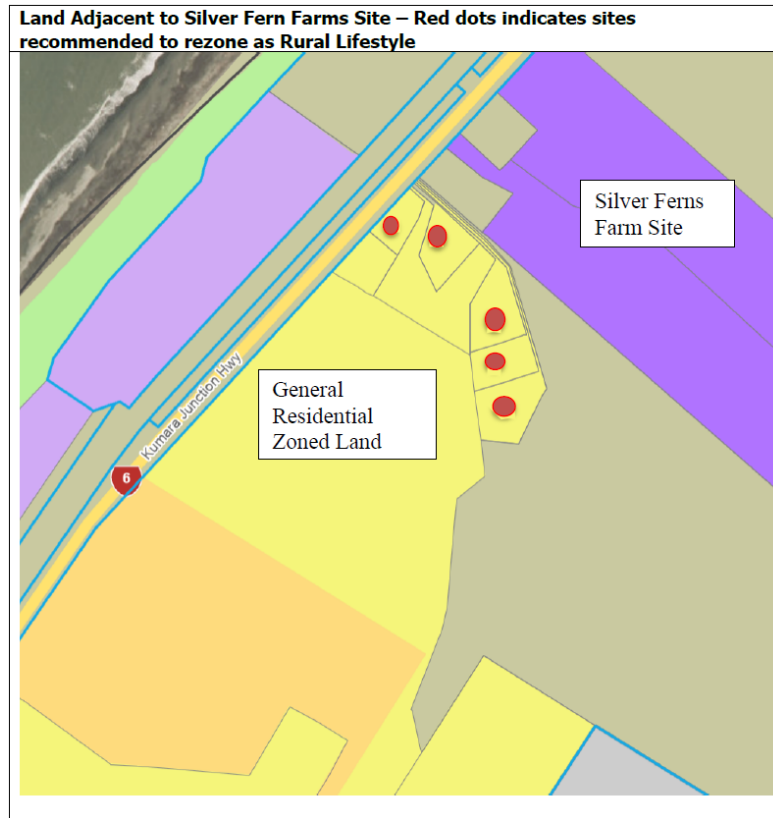


Figure 11: Rural Lifestyle Zone recommended by the section 42A Report.

5.2 I disagree with the recommendations of the section 42A Report for the reasons following.

## 6. ASSESSMENT AND RECOMMENDATIONS

### Definition

6.1 “Reverse sensitivity” is not defined in the National Planning Standards 2019 or the West Coast Regional Policy Statement 2020 (“RPS”). The definition recommended by the PDP is:

*REVERSE SENSITIVITY means the potential for [a] lawfully established [activity] to be compromised [or] constrained by the more recent establishment or alteration of another activity which may be sensitive to the actual, potential or perceived adverse environmental effects generated by a lawfully established activity.<sup>6</sup>*

<sup>6</sup> From Appendix 1 to the section 42A report for the PDP “Introduction and General Provisions” hearing topic. Square brackets indicate what I gather are minor spelling errors.

6.2 The risk of reverse sensitivity effects is why activities and zones sensitive to the effects of industry are normally separated from industrial zones. The opposite appears to have occurred in the case of the Norwest Estate, where a residential subdivision has been developed close to existing industry.

### **West Coast Regional Policy Statement 2020**

6.3 The RPS includes an objective and two policies requiring reverse sensitivity effects to be managed, shown below with **emphasis** added.

6.3.1 Objective 2 of chapter 5, “Use and Development of Resources” is:

2. ***Incompatible use and development of natural and physical resources are managed to avoid or minimise conflict.***

6.3.2 Policy 2 of chapter 5, “Use and Development of Resources” is:

2. ***To recognise that natural and physical resources important for the West Coast’s economy need to be protected from significant negative impacts of new subdivision, use and development by:***

a) ***Avoiding, remedying or mitigating reverse sensitivity effects arising from new activities located near existing:***

- i) *Primary production activities;*
- ii) ***Industrial and commercial activities;***
- iii) *Minerals extraction\*;*
- iv) *Significant tourism infrastructure;*
- v) *Regionally significant infrastructure; and*

b) ***Managing new activities to retain the potential future use of:***

- i) *Land with significant mineral resources; or*
- ii) ***Land which is likely to be needed for regionally significant infrastructure.***

6.3.3 Policy 2 of Chapter 10 “Air Quality” is:

2. ***Management of adverse effects of the discharge of contaminants to air must include consideration of the following:***

- a) **Reverse sensitivity, including the siting of new, incompatible development in proximity to activities that discharge contaminants to air;**
- b) *Use of technology, codes of practice, and industry standards; and,*
- c) *The best practicable option to minimise the adverse effects of the discharge.*

6.4 Section 75(3)(c) of the RMA requires that a district plan must “give effect to” any regional policy statement. This phrase has been established in case law as meaning “implement” and being a strong directive that creates a firm obligation on those subject to it.<sup>7</sup> An unambiguous policy direction puts a stronger obligation on those subject to it.

6.5 In my view, the RPS provisions are unambiguous:

- a. The objective is to avoid or minimise conflicts between incompatible activities;
- b. The first policy is to avoid, remedy or mitigate reverse sensitivity effects on important industry; and
- c. The other policy is to consider reverse sensitivity effects on air discharge activities.

6.6 These indicate to me that decision makers should prefer the avoidance of reverse sensitivity effects, particularly any such effects that are significantly adverse and/or any such effects on important industry. If avoidance is not appropriate, reverse sensitivity effects must be remedied or mitigated.

#### **Importance of the Hokitika site**

6.7 As noted in my 30 May 2024 evidence, section 32 reporting on the Commercial and Industrial provisions identifies the key strategic issues as a shortage of industrial land and the encroachment of incompatible activities into industrial areas. To me, this underscores a need to protect existing important industrial sites.

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<sup>7</sup> Environmental Defence Society Inc v New Zealand King Salmon Company Ltd [2014] NZSC 38, (2014) 17 ELRNZ 442, [2014] 1 NZLR 593, [2014] NZRMA 195.

6.8 The employment of 100 people at the Hokitika site indicates to me that the economic and social benefits deriving from employment generated at the Hokitika site are likely to be important for the West Coast's economy. If so, the corollary is that the Hokitika site warrants "protection" from significant reverse sensitivity effects as directed by Policy 2 (Chapter 5) of the RPS.

#### **Use of zoning to manage effects**

6.9 In my experience, normally land is zoned for its intended purpose and then the development and activities anticipated by the zone follow. The reverse appears to have occurred in respect of the Norwest Estate, where the subdivision proceeded despite being unanticipated (i.e., a non-complying activity) by the operative Plan, and residential zoning is now being advanced in retrospect via the PDP, on grounds that residential land use is unavoidable.

6.10 Given the Norwest Estate is consented, there is no certainty that reverse sensitivity effects on the Hokitika site can be avoided, regardless of the outcome of the PDP process. Relevantly though, the PDP process will determine the areas zoning. I consider the zoning determination is an opportunity to minimise risks of reverse sensitivity effects on the Hokitika site by ensuring the zone(s) that are applied set amenity expectations commensurate with the characteristics of the area. An appropriate zoning can also minimise the risk that future re-subdivision of lots in the Norwest Estate and/or the buffer lots will inappropriately increase the density of residential properties close to the Hokitika site.

#### **Section 42A recommendation to apply the GRZ**

6.11 I agree with the section 42A Report view that rezoning the land to a General Rural Zone would be inappropriate now that residential subdivision and development has occurred at Norwest Estate. The General Rural Zone enables activities that would be inappropriate in a residential subdivision like the Norwest Estate. For example, in the General Rural Zone:

- Agricultural, Pastoral or Horticultural Activities, Emergency Service Facilities, and Mineral Extraction are permitted activities;



- Mineral Extraction and Mineral Prospecting and Exploration are controlled activities; and
- Intensive Indoor Primary Production and Rural Industry are restricted discretionary activities.

6.12 Notwithstanding the unsuitability of the General Rural Zone, in my view it would be equally inappropriate to retrospectively legitimise the out-of-zone residential subdivision at Norwest Estate by rezoning it to GRZ. I consider that doing so may increase the risk of reverse sensitivity effects on the Hokitika site, beyond the risk created by the establishment of the Norwest Estate.

6.13 In my view, applying a GRZ to the Norwest Estate will formally entrench urban residential amenity expectations. These will be a poor fit with the effects of the established non-residential features in the area, like the Hokitika site, airport, state highway, and wastewater treatment facility.

6.14 For example, the potential for permitted noise emanating from the Industrial Zone to provoke reverse sensitivity effects is described at paragraph 8.2 of Mr Humpheson's evidence in chief. Mr Humpheson notes that the PDP's noise limits for industrial zones would be "wholly inappropriate" in the context of residential receivers, and "This highlights the incompatibility of locating a residential zone adjacent to an industrial zone".

6.15 In my view, the zoning of the Norwest Estate and the buffer lots should not increase the risks of reverse sensitivity effects by embedding amenity expectations that are incompatible with the surrounding rural environment and the established industry and other activities.

6.16 Furthermore, I note that under Rule SUB-S1(1)(a), the minimum lot size in the GRZ is 350 m<sup>2</sup>. Lots in the Norwest Estate and the buffer lots vary from slightly over 500 m<sup>2</sup> to > 3,000 m<sup>2</sup> in area. As such, even though several lots are constrained by consent notice and covenant requirements relating to building siting and vegetation protection, the owners of a lot(s) in the GRZ could apply (as a restricted discretionary activity under Rule SUB-R5) to re-subdivide, thereby cumulatively increasing the density of residential

properties around the Hokitika site. In my opinion, it would be more appropriate if the zoning of the Norwest Estate and the buffer lots restricts the potential for small-lot re-subdivision.<sup>8</sup>

- 6.17 Considering the above, in my view, the most appropriate zone to be applied to the northern part of the Norwest Estate, north of the proposed Medium Density Residential Zone (but not the buffer lots, which I discuss later), is the Rural Lifestyle Zone. This zone provides for residential activities in a rural environment in a manner that seeks to avoid reverse sensitivity effects on the rural environment and rural activities.
- 6.18 The role of the Rural Lifestyle Zone as an interface between urban and rural environments is described in the “Overview” section of the zone chapter, and the zone is described in the National Planning Standards 2019 as “*Areas used predominantly for a residential lifestyle within a rural environment on lots smaller than those of the General rural and Rural production zones, while still enabling primary production to occur*”. These descriptions make it clear that the Rural Lifestyle Zone does not demand the same amenity as urban zones like the GRZ.
- 6.19 Under Rule NOISE-R6 the permitted noise limits in the Rural Lifestyle Zone and the General Rural Zone are the same. Therefore, and noting the analysis at section 8 of Mr Humpheson’s March 2024 statement of evidence, in my view the Rural Lifestyle Zone appropriately minimises the risk of reverse sensitivity effects arising from permitted noise emissions in rural areas. In contrast, the lower noise limits of the GRZ would not, in my view, be as appropriate.
- 6.20 Furthermore, the Rural Lifestyle Zone provides for lower subdivision densities than the GRZ. In the Rural Lifestyle Zone, the minimum lot size is 1 hectare, compared to 350 m<sup>2</sup> in the GRZ. Therefore, if the Norwest Estate is included in the Rural Lifestyle Zone, re-subdivision of the new lots would breach standard SUB-S1(1)(g) and trigger a discretionary consenting pathway under Rule SUB-R6.

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<sup>8</sup> As stated in paragraph 1.5 of this evidence, I have relied on the amended subdivision provisions recommended in the Subdivision section 42A report, not the provisions of the notified PDP.

6.21 In comparison, if the GRZ applies to the Norwest Estate, it would appear that re-subdivision of larger lots could comply with the 350 m<sup>2</sup> minimum lot size and other applicable conditions. If so, this would be a controlled activity under Rule SUB-R5.

6.22 I consider that in the context of the locality, the discretionary subdivision pathway under the Rural Lifestyle Zone is a more appropriate management framework than the controlled pathway under the GRZ. The former provides scope for notification of potentially affected parties and enables the consent authority to decline to grant a consent. In contrast, (and even acknowledging that Rule SUB-R5(p) reserves control over potential reverse sensitivity effects), I do not consider that a controlled activity<sup>9</sup> consenting pathway for re-subdivision will minimise potential reverse sensitivity effects to the same degree, and in a manner that protects important industry as envisaged by the RPS.

6.23 Consequently, I consider that the Rural Lifestyle Zone is more appropriate than the GRZ when the surroundings of the northern part of the Norwest Estate, particularly the risk of reverse sensitivity effects on the Hokitika site, are taken into account.

6.24 Figures 12 and 13 below show my recommended zone configuration for the northern part of the Norwest Estate, and for the buffer lots, which I discuss in the next subsection.

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<sup>9</sup> E.g., where public notification is precluded by RMA section 95A(5)(b)(i) and a consent application cannot be declined except in limited circumstances under RMA section 104A.

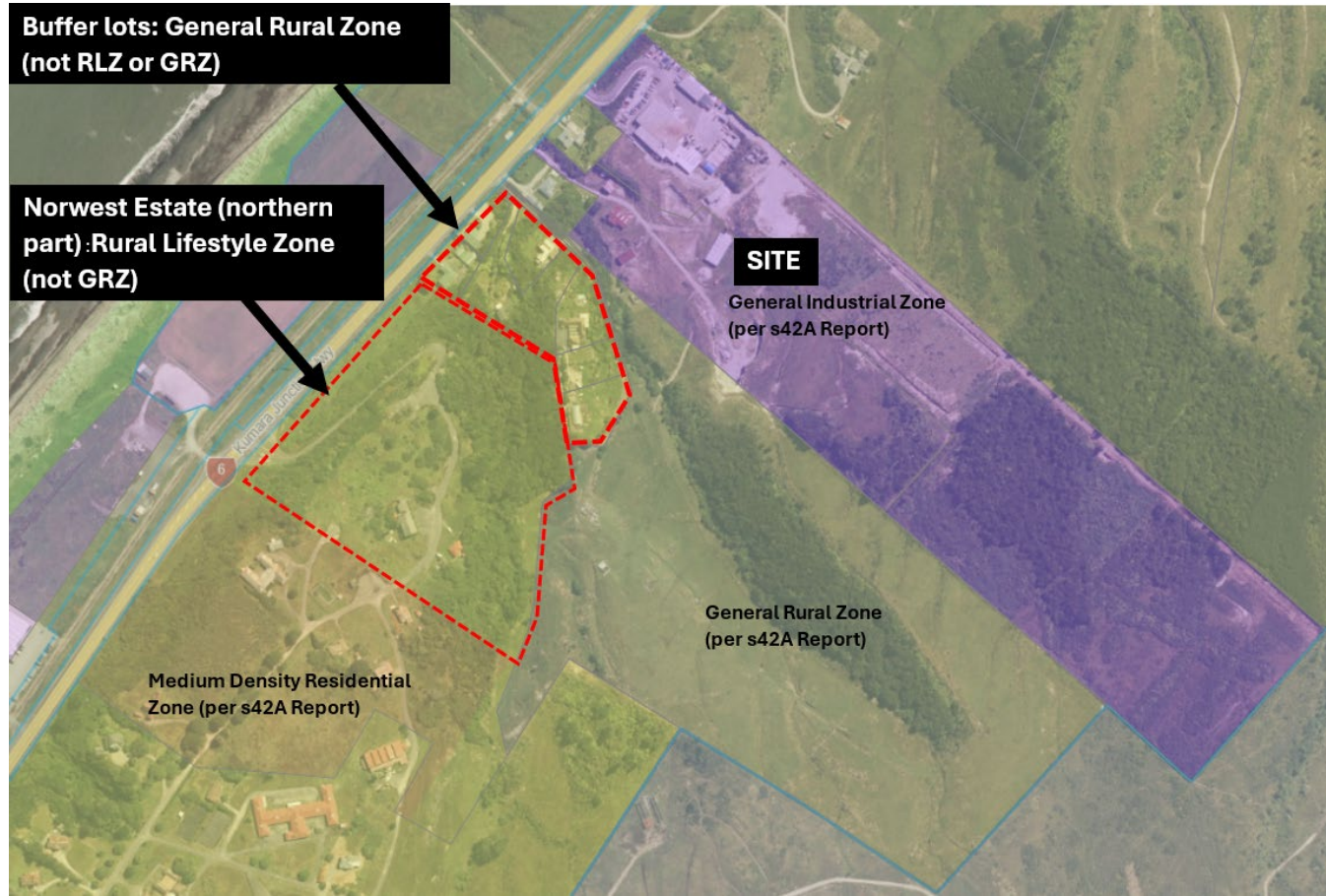


Figure 12: S Tuck recommended zone configuration (transparent).



Figure 13: S Tuck recommended zone configuration (zone colours shown).

### **Section 42A recommendation to apply the Rural Lifestyle Zone**

- 6.25 The section 42A Report recommends applying the Rural Lifestyle Zone to five of the seven buffer lots located between the Hokitika site and the Norwest Estate (Figures 5 and 11).<sup>10</sup>
- 6.26 I do not support upzoning any of the seven buffer lots to the Rural Lifestyle Zone, due to their direct interface with the Hokitika site. The noise limits for the Rural Lifestyle Zone and the General Rural Zone are the same, as both zones are subject to Rule NOISE-R6. However, in my view the amenity expectations that attend rural residential zones are often for a relatively peaceful rural environment, without the more obtrusive primary production, farming and rural industry activities that characterise the wider rural environment being present on adjoining land.
- 6.27 As such, I consider that applying the Rural Lifestyle Zone to land adjoining the Hokitika site risks entrenching amenity expectations that could cause reverse sensitivity effects in a similar way to the GRZ. That is, residents of a Rural Lifestyle Zone covering the buffer lots could perceive this upzoning as demanding a higher level of amenity than exists at present. They might then seek to contest the established effects of the Hokitika site on that basis.
- 6.28 In my view, applying the GRZ and a Rural Lifestyle Zone to the buffer lots as recommended by the section 42A Report would increase the risk of the PDP not giving effect to the RPS' reverse sensitivity provisions.
- 6.29 I consider that applying a General Rural Zone to the buffer lots, instead of the GRZ and Rural Lifestyle Zone, would assist to minimise the risk of reverse sensitivity effects. It would therefore be more appropriate in light of the RPS' reverse sensitivity provisions.

### **Alternative management approaches**

- 6.30 If the Hearings Panel agrees with the section 42A Report's recommendations, I have considered whether changes to the residential

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<sup>10</sup> Two lots (Pt Lot 1 DP 1365 Blk XIII Waimea SD and Lot 2 DP 2378 Blk XIII Waimea SD) are not red-dotted, despite their being located in the cluster "red-dotted" by the section 42A Report. I am not sure why those two would be left in the GRZ, as they are equally close to the Hokitika site as the other five that the section 432A Report recommends zoning as Rural Lifestyle.

zone provisions would be appropriate to minimise the risk of significant adverse effects on the Hokitika site, on the assumption that this site is important and should be protected as per the RPS provisions referenced earlier.

6.31 In my evidence on the industrial zones, I recommended amendments to the “INZ” objective and associated policies to exempt the Hokitika site from the directions to avoid amenity effects on activities in other zones.<sup>11</sup>

6.32 If the section 42A Report’s zone configuration is adopted by the Panel, I would consider that complementary amendments to the GRZ are needed, so that both zones recognise the circumstances that have arisen at this location. In that scenario, my recommendation would be for the following amendments, the latter of which refines the relief sought in Silver Fern Farm’s submission on RESZ-P16:

*RESZ – O4 The industrial activity located at 140 Kumara Junction Highway is protected by avoiding reverse sensitivity effects generated by activities in residential zones.*

*RESZ – P16 Avoid reverse sensitivity effects from residential development adjacent to strategic infrastructure and existing industrial activity including:*

- a. Hokitika, Greymouth and Westport Airports;*
- b. The rail network;*
- c. The arterial road and State Highway network;*
- e. Wastewater treatment plants;*
- f. Landfills;*
- g. Potable water supply plants*
- h. Stormwater treatment facilities;*
- i. The National Grid; and*
- j. The meat processing plant located at 140 Kumara Junction Highway (Lot 1 DP 545864 and Lot 2 DP 545864).*

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<sup>11</sup> Please refer to paragraph 5.14, and the table at Appendix 1, of my 30 May 2024 evidence.

- 6.33 If the section 42A Report recommendation regarding a Rural Lifestyle Zone buffer is adopted by the Hearings Panel, I would consider that an amendment to those provisions, similar to the above, would be necessary. That matter can be addressed in the Rural Zones hearing topic late this year.
- 6.34 I would be happy to discuss alternative effects management solutions the section 42A Report author may propose.

## **7. CONCLUSION**

- 7.1 I do not support the section 42A Report recommendations to rezone land adjacent to the Hokitika site to a mix of GRZ and (for five of the seven buffer lots) Rural Lifestyle Zone. The inherent amenity expectations that attend residential and rural-residential zones means these zones are sensitive to the effects of industrial activities.
- 7.2 In my view, locating those zones in the manner recommended by the section 42A Report presents a clear risk of reverse sensitivity effects adversely affecting an important industrial site. Residents of the new zones may perceive their zoning as warranting a higher level of amenity than is available in the context. They may object to the effects of the Hokitika site on that basis. This presents a risk of constraining the ability of Silver Fern Farms to operate as envisaged by the GIZ and the resource consents that regulate the Hokitika site.
- 7.3 In my opinion, it would be inappropriate to require the Hokitika site to internalise its effects to a standard commensurate with residential amenity expectations. The Hokitika site was developed, and its operations have been consented, in the context of a rural environment and a rural zoning. Clause 5.6.1 of the operative Plan clearly indicates that the area around the Hokitika site is unsuited to residential amenity. Given the operative Plan provisions and the established context of the locality, the Norwest Estate residential subdivision and development that has been consented on a non-notified basis appears quite out of the ordinary and I do not consider that it could have been foreseen by Silver Fern Farms.



- 7.4 Therefore, while the Hokitika site complies with industrial performance standards and the conditions of its resource consents, I see no reason to risk its operations being curtailed or constrained by incompatible activities and subsequent retrofitting of zoning. Furthermore, the potential for the Hokitika site to accommodate further industrial development should be preserved, given the strategic importance of the site.
- 7.5 I consider that the burden of adaptation most appropriately lies with the agent of change, which in this case is the Norwest Estate residential subdivision and the GRZ and Rural Lifestyle Zone configuration that the section 42A Report recommends.
- 7.6 In my view it does not follow that the consenting and development of the Norwest Estate in a Rural Zone demands retrospective legitimisation by rezoning to a residential zone. I consider that a residential rezoning would increase the risk of poor outcomes that was created by the initial consenting of the subdivision, particularly through the entrenchment of residential amenity expectations, and the creation of re-subdivision potential.
- 7.7 I consider that the potential reverse sensitivity effects of residential activities encroaching into a Rural Zone populated by features like the Hokitika site (and other robust existing infrastructure and development) are such that the most appropriate zoning response is to apply the Rural Lifestyle Zone to the northern portion of the Norwest Estate, and to apply the General Rural Zone to the buffer lots.
- 7.8 My recommended zone configuration may assist to moderate the amenity expectations of residents of the Norwest Estate and the buffer lots. In turn, this may help to minimise the risk of reverse sensitivity effects on the Hokitika site, consistent with the RPS.
- 7.9 The PDP process has now advanced beyond hearings on the noise, light and subdivision provisions. I am unsure how detailed issues like the delineation of buffers between the Hokitika site and the Norwest Estate and re-subdivision potential in the latter could otherwise be efficiently (re)negotiated within the scope of the PDP process. As such I consider that my recommended zone configuration is more appropriate in its simplicity

compared to retrofitting additional layers of complexity to the PDP through an alternative mix of zones, overlays, setback requirements or the like.

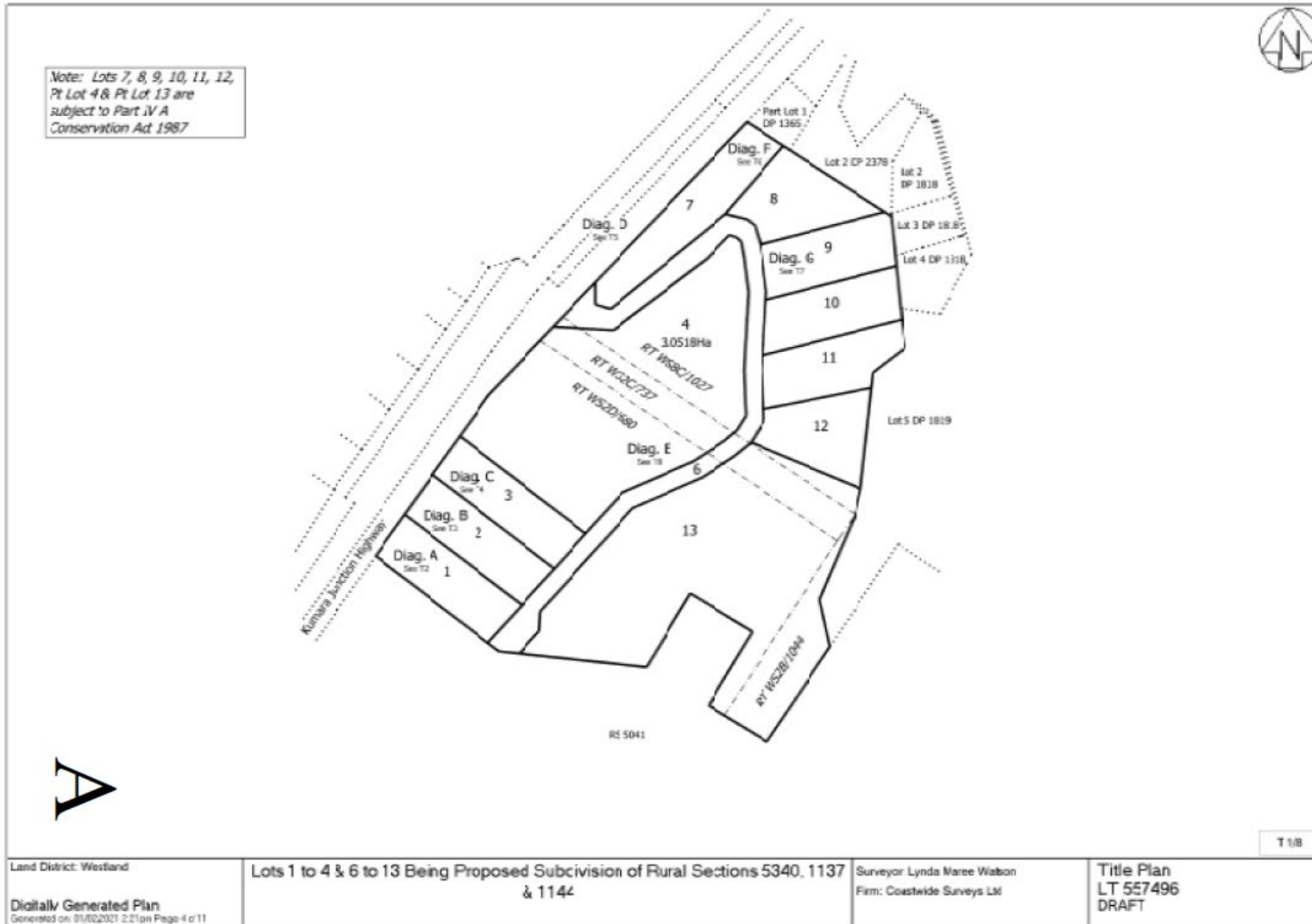
- 7.10 However, if the Panel accepts the section 42A Report zoning recommendations, I have recommended amended GRZ provisions to require that activities in the GRZ must avoid reverse sensitivity effects on the Hokitika site. In my view, those amendments would be a necessary adjunct to the recommendations on the industrial zone provisions set out in my evidence on that topic. If the buffer lots were included in the Rural Lifestyle Zone, I consider that similar amendments would be necessary for that zone to recognise the established presence of the Hokitika site.
- 7.11 In my view however, adding site-specific caveats to zone-wide objectives and policies in an attempt to minimise cross-zone conflicts is an inelegant solution. I consider that my recommended zone configuration is likely to be a more efficient and effective method to manage and minimise the potential reverse sensitivity effects identified by Silver Fern Farms and the section 42A Report.

**Steve Tuck**

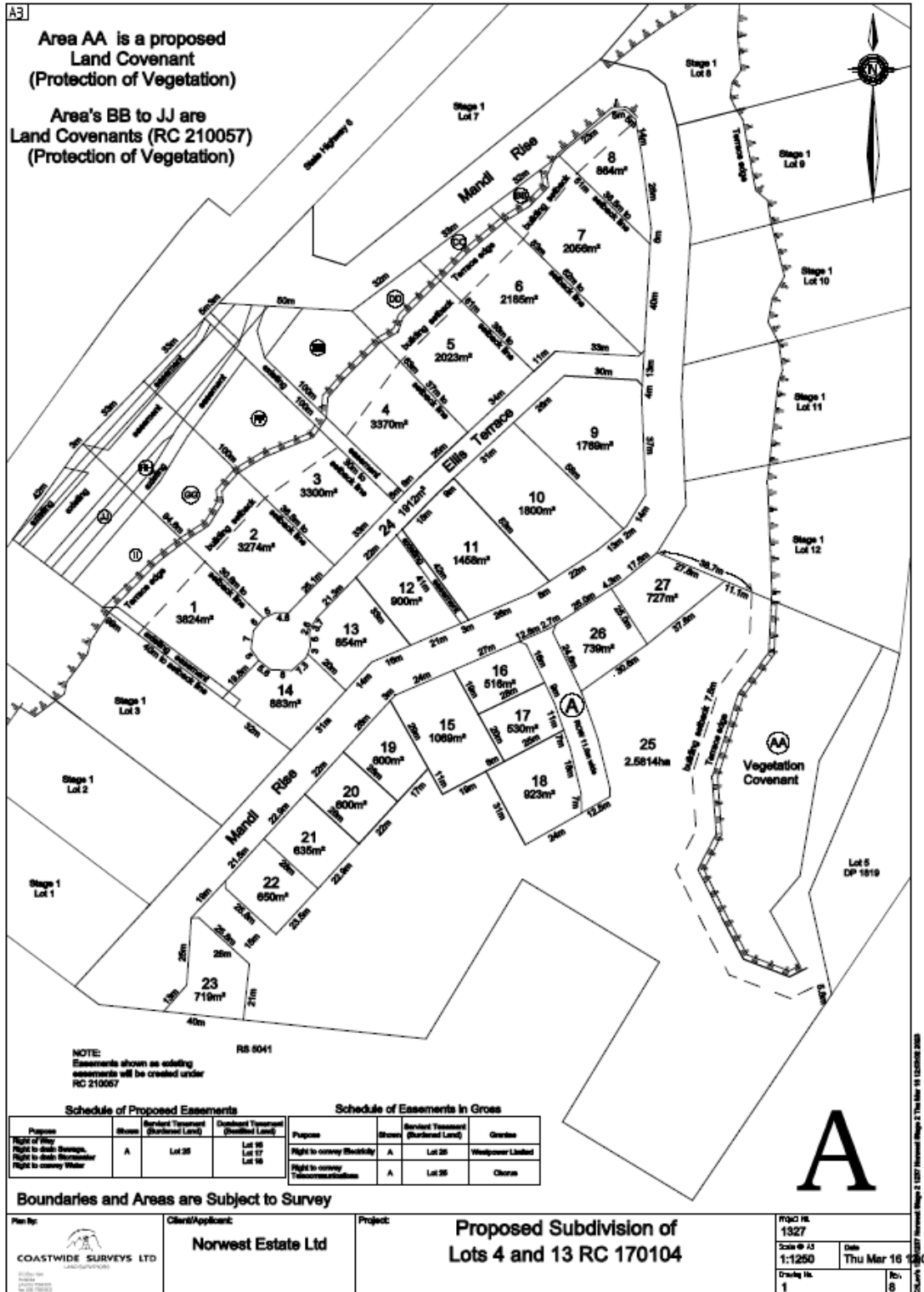
**14 June 2024**

**Appendix 1: Consented Subdivision Plans for Norwest Estate**

**STAGE 1 SUBDIVISION AND LAND USE (CONSENTS 210057 & 210058)**



STAGE 2 SUBDIVISION AND LAND USE (CONSENTS 230033 & 230034)



## **Appendix 2: S Tuck recommended amendments**

Notified Provision	Number and Relief Sought by SFF	Section 42A Recommendation	S Tuck Recommended Amendments	Section 32AA Evaluation (where relevant)
Residential Zone overview and mapping	S441.062 S441.071 Delete the proposed residential rezoning from land adjacent to Silver Fern Farms' Hokitika site.	Accept in part. Apply Rural Lifestyle Zone as a buffer between the GIZ and GRZ.	Delete the GRZ and Rural Lifestyle Zone configuration near the Hokitika site as recommended by the section 42A Report and instead apply: <ul style="list-style-type: none"> <li>• the General Rural Zone to the buffer lots; and</li> <li>• the Rural Lifestyle Zone; to the northern half of the Norwest Estate;</li> </ul> in the manner shown in Figures 12 and 13 of my statement of evidence.	This recommendation will assist to mitigate the potential costs to the community's economic and social wellbeing that may arise if reverse sensitivity effects were to curtail or constrain the operation of the Hokitika site (and/or other established features of the area, such as the Airport). In the circumstances, this is the most efficient way to manage the effects of encroachment by incompatible activities in the rural environment. As residential development has already been consented at Norwest Estate, there will be limited costs in the form of additional resource consent requirements for dwellings in a Rural Lifestyle Zone.

Notified Provision	Number and Relief Sought by SFF	Section 42A Recommendation	S Tuck Recommended Amendments	Section 32AA Evaluation (where relevant)
RESZ-O3 To provide for a range of non-residential activities within RESZ - Residential Zones where the effects are compatible with the residential character, scale and amenities and the cultural and historic heritage values of the area.	S441.063 RESZ-O3 - To provide for a range of non-residential activities within RESZ - Residential Zones where the effects are compatible with the residential character, scale and amenities and the cultural and historic heritage values of the <u>zone</u> area.	Reject	No further amendments required.	The buffer lots are included in the Rural Zone under the operative Plan, therefore my recommended zoning for those seven lots (General Rural Zone) maintains the status quo for those properties.
Nil.	Nil.	Nil.	<u>RESZ – O4 The industrial activity located at 140 Kumara Junction Highway is protected by avoiding reverse sensitivity effects generated by activities in residential zones.</u>	If the section 42A Report recommendations are accepted by decision makers, it is efficient to provide site specific recognition of the circumstances in play at the Hokitika site, such that the site is not compromised by reverse sensitivity effects. This



Notified Provision	Number and Relief Sought by SFF	Section 42A Recommendation	S Tuck Recommended Amendments	Section 32AA Evaluation (where relevant)
				<p>will assist to minimise the risk, and subsequent costs, of the site's operations being curtailed or constrained by residential activities.</p> <p>There would be minimal costs deriving from this amendment, given its site-specific nature will not affect the wider GRZ areas around the district.</p>
<p>RESZ - P16 Avoid reverse sensitivity effects from residential development adjacent to strategic infrastructure including:</p> <ul style="list-style-type: none"> <li>a. Hokitika, Greymouth and Westport Airports;</li> <li>b. The rail network;</li> <li>c. The arterial road and State Highway network;</li> <li>d. The Ports of Westport and Greymouth;</li> <li>e. Wastewater treatment plants;</li> <li>f. Landfills;</li> </ul>	<p>S441.064</p> <p>RESZ - P16 Avoid reverse sensitivity effects from residential development adjacent to strategic infrastructure <u>and existing business and industrial activity</u> including:</p> <ul style="list-style-type: none"> <li>a. Hokitika, Greymouth and Westport Airports;</li> <li>b. The rail network;</li> <li>c. The arterial road and State Highway network;</li> <li>d. The Ports of Westport and Greymouth;</li> </ul>	<p>Reject</p>	<p>RESZ - P16 Avoid reverse sensitivity effects from residential development adjacent to strategic infrastructure <u>and existing industrial activity</u> including:</p> <ul style="list-style-type: none"> <li>a. Hokitika, Greymouth and Westport Airports;</li> <li>b. The rail network;</li> <li>c. The arterial road and State Highway network;</li> <li>d. The Ports of Westport and Greymouth;</li> <li>e. Wastewater treatment plants;</li> </ul>	<p>This amendment provides a site- and locality-specific policy response to the unusual circumstances (residential encroachments) that have arisen near the Hokitika site.</p> <p>The specificity of the recommended amendments is an effective and efficient way to target the protection of the Hokitika site from reverse sensitivity effects, in accordance with RPS directions.</p> <p>The benefits of this amendment are in the minimisation of potential costs to the community (reduced</p>

Notified Provision	Number and Relief Sought by SFF	Section 42A Recommendation	S Tuck Recommended Amendments	Section 32AA Evaluation (where relevant)
g. Potable water supply plants h. Stormwater treatment facilities; i. The National Grid.	e. Wastewater treatment plants; f. Landfills; g. Potable water supply plants h. Stormwater treatment facilities; i. The National Grid; j. <u>The meat processing plant located at 140 Kumara Junction highway.</u>		f. Landfills; g. Potable water supply plants h. Stormwater treatment facilities; i. The National Grid; <u>The meat processing plant located at 140 Kumara Junction Highway (Lot 1 DP 545864 and Lot 2 DP 545864).</u>	employment and economic activity) that would arise from the curtailment or constraint of the Hokitika site's operations.
None (no proposed drafting provided by the original submitter).	FS101.038 Disallow the relief sought by submission number S171.008 seeking addition of an additional Objective to the Residential Zones that provides direction to support the rezoning of new areas for residential development, intensification or managed retreat.	Accept the further submission.	No further relief required.	n/a

Notified Provision	Number and Relief Sought by SFF	Section 42A Recommendation	S Tuck Recommended Amendments	Section 32AA Evaluation (where relevant)
None (no proposed drafting provided by the original submitter).	FS101.039  Disallow the relief sought by submission number S171.009 seeking the addition of a policy that provides direction to support the rezoning of residential expansion at Alma Road in Westport, Paroa in Greymouth and Seaview/ Kanieri in Hokitika to the Residential Zones policies.	Accept the further submission.	No further relief required.	n/a



**Appendix Two: Supplementary Statement of Evidence by Darran Humpeson (Noise), dated 14 June 2024**

BEFORE THE HEARINGS PANEL FOR THE PROPOSED TE TAI O POUTINI  
DISTRICT PLAN

**IN THE MATTER OF**            the Resource Management Act 1991

**AND**

**IN THE MATTER OF**            the Proposed Te Tai o Poutini District Plan (Residential  
Zones topic)

**SUBMITTER**                    Silver Fern Farms Limited, submitter no. 441

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**SUPPLEMENTARY STATEMENT OF EVIDENCE BY DARRAN HUMPHESON  
(NOISE)**

14 JUNE 2024

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## **1. QUALIFICATIONS AND EXPERIENCE.**

- 1.1 My full name is Darran Humpheson. I am a Technical Director of Acoustics at Tonkin & Taylor Limited (**T+T**).
- 1.2 My professional qualifications and experiences are stated in my 7 March 2024 statement of evidence (**Primary Evidence**) on the Residential Zones chapter of the Proposed Te Tai o Poutini Plan (**TTPP**), which I prepared on behalf of Silver Fern Farms Limited (**Silver Fern Farms**).
- 1.3 This supplementary statement of evidence on noise matters responds to the s42A Report prepared by Ms Lois Easton with respect to Silver Fern Farms site at Hokitika (the **Site**) and zoning of neighbouring land for residential development.
- 1.4 In preparing this evidence, I have also read the following documents:
- Te Tai o Poutini Plan Section 32 Evaluation Report Seven General District Wide Matters, Noise - Ngā Oro (**s32 Report**);
  - Te Tai o Poutini Plan Section 42A Officer's Report Residential Zones – Ngā Takiwa Noho (**s42A Report**); and
  - Mr Tuck's statement of evidence dated 14 June 2024 relating to planning matters.
- 1.5 While this is not an Environment Court hearing, I confirm that I have read, and agree to comply with, the Code of Conduct for Expert Witnesses stated in the Environment Court's Practice Note 2023. I confirm that the issues addressed in this supplementary statement of evidence are within my area of expertise. I confirm that I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

## **2. SCOPE OF EVIDENCE**

- 2.1 I have been engaged by Silver Fern Farms Limited (**Silver Fern Farms**) to prepare expert noise evidence on the TTPP. In my Primary Evidence, I

provided an overview of how noise is assessed, including within the TTPP noise chapter and general amenity expectations with respect to noise. I then considered the potential for reverse sensitivity effects to arise if a residential zone is located next to the Site as shown in the TTPP. Finally, I provided a number of recommendations to assist the s42A reporting officer. These recommendations included:

- a. Introduction of a buffer zone between the proposed General Industrial Zone (**GIZ**) and the proposed General Residential Zone (**GRZ**). This buffer could either be Light Industrial Zone (**LIZ**) or General Rural Zone (**GRUZ**), i.e. a zone with lower noise amenity expectations than the GRZ. I estimated that a suitable buffer would be in the order of 100 metres.
- b. If the proposed GRZ was to remain on adjacent land to the Site, then suitable measures to remedy or mitigate potential noise effects on new dwellings could include:
  - i. a requirement to acoustically treat the building envelope in the same manner as acoustic treatment is required for transportation infrastructure; and/or
  - ii. registration of a 'no complaints covenant' via a s221 consent notice to alert potential buyers of future residential land to the presence of industrial noise.

2.2 This supplementary statement reviews these recommendations in light of the s42A Report's recommendations and knowledge that a new subdivision called **Norwest Estate** has been consented and is currently being constructed on the land identified in the TTPP as future GRZ and Medium Density Residential Zone (**MDRZ**).

### **3. S42A REPORT RECOMMENDATIONS**

3.1 Mr Tuck summarises the s42A Report recommendations in his evidence and I have repeated part of his summary below for completeness. He also describes the Norwest Estate residential subdivision which I do not repeat below; suffice to say that land has already been subdivided for residential

use. I understand from Mr Tuck that the subdivision was granted on a non-notified basis for non-complying residential subdivision and development activities in the operative Rural Zone of the operative Westland District Plan.

- 3.2 The s42A Report recommends amending the zoning shown in the TTPP to include five rural-residential-style lots located immediately to the south of the Site in the Rural Lifestyle Zone (**RLZ**) rather than the GRZ as proposed in the notified TTPP. Those five lots are shown in Figure 1, which is sourced from the s42A Report. The reason for this change is outlined in paragraph 321 of Ms Easton’s report after she visited the site on 29 April 2024. During her site visit she observed that subdivision of the land had already occurred, and she acknowledges in her s42A Report that she shares the concerns of Silver Fern Farms about reverse sensitivity issues associated with the proposed rezoning of this adjacent land.

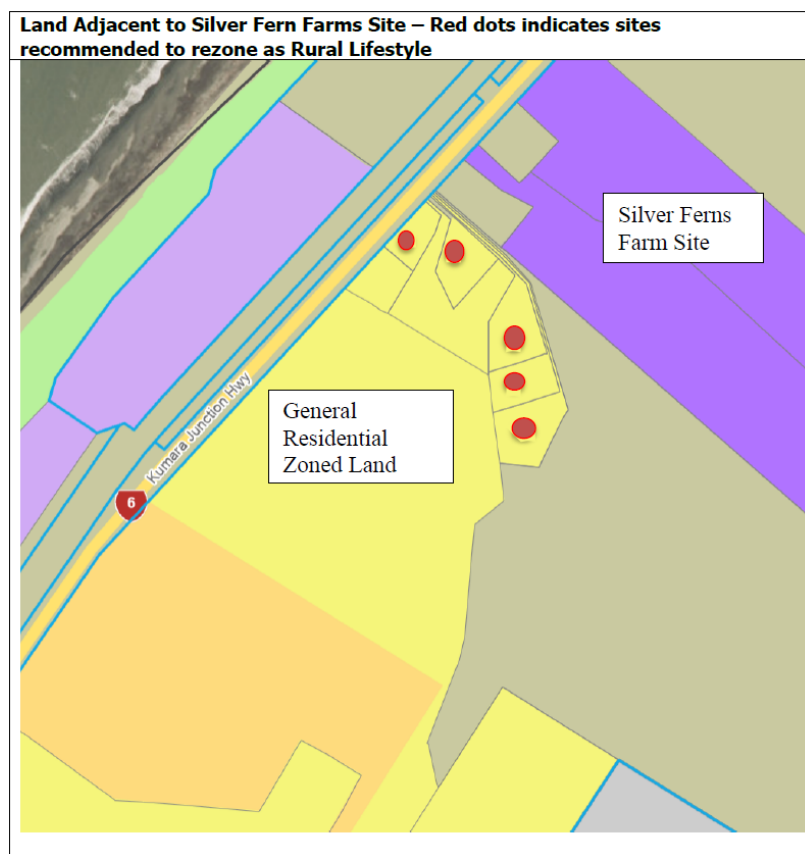


Figure 1: Rural Lifestyle Zone recommended by the s42A Report.

- 3.3 The configuration of lots to the south of the Site includes:



- a. Seven established rural-residential-style lots immediately to the south;
- b. and
- b. The new Norwest Estate subdivision south of the seven established rural-residential-style lots. It comprises 41 lots with current land use consents for 35 dwellings.

3.4 The seven established rural-residential-style lots immediately to the south of the Site are shown with stars in Figure 2. These lots provide a separation of about 100 metres between the Silver Fern Farm site and land further south. This separation distance is one of the reasons why I proposed a 100 metre buffer in my Primary Evidence.<sup>1</sup> Mr Tuck refers to these lots as the “buffer lots”.



Figure 2: Established rural-residential lots

3.5 The land further south of those seven established lots is the new Norwest Estate residential subdivision. Under the TTPP, it is partly in the GRZ and partly in the MDRZ, as shown in Figure 3.

<sup>1</sup> ~ distance required to achieve a noise level of 45 dB from an industrial activity generating 60 dB

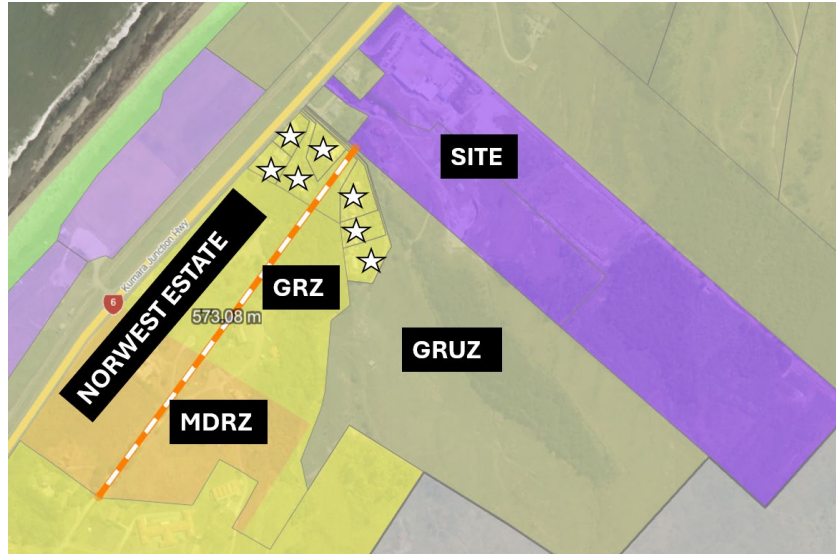


Figure 3: Norwest Estate zoning

- 3.6 Ms Easton concludes that as residential properties are already being constructed, a GRZ would be inappropriate for land that is now subdivided and sold for residential development at urban densities. She concludes that the five properties marked in my Figure 1 could be rezoned as RLZ to reduce the risk of further reverse sensitive issues – as shown on the left-hand side of Figure 4.
- 3.7 I was unaware of the Norwest Estate subdivision when I prepared my Primary Evidence in March of this year. The views reached in my statement are unchanged and, like Ms Easton, I consider that a change in the proposed zoning of land adjacent to the GIZ is warranted. However, Mr Tuck and I do not agree with the rezoning proposal advanced by Ms Easton in her s42A Report. Instead, we recommend to the Hearings Panel the following solution as shown on the right-hand side of Figure 4. This figure compares two options available to the Hearings Panel.



s42A Report recommendation

Silver Fern Farms recommendation

Figure 4: Zoning options (s42A recommendation. Silver Fern Farm recommendation)

3.8 I now explain in terms of noise effects why the Silver Fern Farm recommendation is preferable. Mr Tuck considers the wider planning merits of this recommendation in his Evidence.

#### 4. RESIDENTIAL AMENITY

4.1 In my Primary Evidence I provided an overview of amenity values with respect to noise and the expectations of people and the quality of a particular environment in terms of its noise conditions/characteristics and how those conditions contribute to its comfortable, healthy and pleasant use. I also noted that occupants of established dwellings will likely have habituated to noise generated by the Site, whereas new occupants moving to the source of the noise may not have the same noise tolerance.

4.1 My position on the TTPP's permitted noise standards for residential zones (NOISE-R5 and NOISE-R6) is unchanged. I support the noise limit of 55 dB LAeq(15min) during the day and 45 dB LAeq(15min) at night. However, I still consider that an industrial zone noise limit of 60 dB LAeq(15min) (NOISE-R8) as experienced in a new residential zone, and specifically as experienced by occupants of new dwellings, is sufficient to compromise indoor and outdoor noise amenity. The result being the potential for reverse sensitivity effects to arise.

- 4.2 As I have outlined above at paragraph 2.1, and detailed in my Primary Evidence, there are potential solutions available to remedy or mitigate potential noise effects.
- 4.3 In my experience, residential occupiers do have different expectations of residential noise amenity, depending on where they live. These expectations are reflected in the zoning of land and why some district plans have different noise limits for different zones. Generally rural noise limits are more permissive than residential noise limits on the basis that higher noise levels can be expected in a rural area. Noise sources such as agricultural / viticultural activities will typically vary and at times can be likened to certain industrial activities, for example movement of produce and goods.
- 4.4 The Residential Zones Chapter and Rural Zones Chapter<sup>2</sup> of the TTPP outline the characteristics of these zones and their relationships with other zones. The chapters also acknowledge the differing residential amenity values, and the need to consider potential reverse sensitivity effects depending upon the receiving environment / zone. These issues are also noted in the s32 Report where it discusses the benefits and efficiency and effectiveness of noise management options.<sup>3</sup>
- 4.5 I have ranked the applicable zones in order of increasing sensitivity with respect to residential noise amenity. The ranking method I have used is not related to the noise limits in NOISE-R5 and NOISE-R6 (as the same noise limits apply irrespective of the zone) but is based on my opinion of the expectations of the occupiers of those zones and from my reading of the Residential Zones Chapter and Rural Zones Chapter.<sup>4</sup>

- General Rural (GRUZ)
  - Rural Lifestyle (RLZ)
  - Residential (all zones) RESZ
- 

- 4.6 This ranking is not saying that residential amenity in the GRUZ is not important, but rather, that there is a different expectation on the types of

<sup>2</sup> Pages 371 to 453 of the Proposed TTPP

<sup>3</sup> Pages 24 and 27 of the s32 Report – 4.4.2 Evaluation of Options around Noise Management

<sup>4</sup> Pages 371 to 453 of the Proposed TTPP

noise that can be experienced and the acceptability of that noise, in particular the acceptability of the activity(s) that generates noise. For example, noise of an industrial nature (akin to the level of noise created by agricultural activities) would be more expected in a GRUZ than in either a RLZ or RESZ. Mr Tuck provides further context on this amenity acceptability in his Evidence at paragraphs 6.26 to 6.29.

- 4.7 Using this graded zoning approach is an appropriate means of reducing the potential for people to be adversely affected by noise as there is the presumption that certain types of noise (level and characteristics) can be expected within a particular zone.
- 4.8 Establishing a GRUZ followed by a RLZ with RESZ at greater distances from an INZ is more appropriate than having a RLZ immediately adjacent to an INZ. This is the basis of the zoning configuration that Mr Tuck and I recommend (see right-hand side of Figure 4).

## **5. SUMMARY**

- 5.1 In my Primary Evidence I concluded that there would be the potential for reverse sensitivity effects to arise from the proposed rezoning of land near to the Silver Fern Farms Site in Hokitika (and the wider INZ). I recommended a number of controls to remedy and mitigate noise effects. However, those recommendations were made without knowledge of the Norwest Estate residential subdivision. Having read the s42A Report, Ms Easton was also unaware of this subdivision. I have therefore revised my recommendations in consultation with Mr Tuck and Silver Fern Farms.
- 5.2 I do not agree with the recommendation made in the s42A Report to rezone land adjacent to the Site to GRZ and RLZ. Instead, I recommend a graded rezoning approach by applying a GRUZ to the nearest and existing residential lots (the “buffer” lots marked in Figure 2) and to apply a RLZ to the area of the Norwest Estate residential subdivision north of the proposed MDRZ. This rezoning is consistent with my recommendation to have a 100 m buffer, as the RLZ would be this distance from the GIZ at the Site.

5.3 This recommendation helps minimise the potential for reverse sensitivity effects due to the different noise amenity expectations of these zones.

**Darran Humpheson**

**14 June 2024**